

HOUSE JOURNAL

SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-SIXTH DAY — THURSDAY, MAY 17, 2001

The house met at 11:45 a.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; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddock; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Hilbert; Smithee.

Absent, Excused, Committee Meeting — Hochberg; Marchant; Pitts; Sadler; Tillery.

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 12

SB 148

SB 453

SB 477

SB 587

SB 714

SB 757

SB 790

SB 877

SB 990

SB 1015

SB 1061

SB 1091

SB 1125

SB 1146

SB 1371

SB 1394

SB 1491

SB 1563

SB 1656

SB 1667

SB 1772

SB 651

SB 904

SB 1213

SB 1810

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): 140 Yeas, 0 Nays, 2 Present, not voting (members registering votes and the results of the vote are shown following bill number).

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Issett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert; Smithee.

Absent, Excused, Committee Meeting — Hochberg; Marchant; Pitts; Sadler; Tillery.

Absent — Garcia.

SB 275

SB 326

SB 542

SB 907

SB 1002

SB 1164

SB 1588

SB 1707 (Elkins - no) (139-1-2)

SB 1735

SB 1799

SB 1811

SB 1814

SB 986

SB 1207

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Juvenile Justice and Family Issues, upon noon recess today, Desk 45, for a formal meeting, to consider **SB 478**.

Appropriations, upon noon recess today, Desk 35, for a formal meeting, to consider **SB 1837**.

Licensing and Administrative Procedures, upon noon recess today, Desk 66, for a formal meeting.

Urban Affairs, upon noon recess today, Desk 46, for a formal meeting, to consider **HB 1564**, **SB 557**, and **SB 1176**.

State Affairs, upon noon recess today, Desk 71, for a formal meeting.

Public Safety, upon noon recess today, Desk 141, for a formal meeting.

RECESS

Representative Ramsay moved that the house recess until 1:30 p.m. today.

The motion prevailed without objection.

The house accordingly, at 11:55 a.m., recessed until 1:30 p.m. today.

AFTERNOON SESSION

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

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).

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Smithee now present)

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).

**SB 382 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Ehrhardt, the house granted the request of the senate for the appointment of a conference committee on **SB 382**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 382**: Ehrhardt, chair, Carter, Bailey, Burnam, and Thompson.

**SB 406 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Hardcastle, the house granted the request of the senate for the appointment of a conference committee on **SB 406**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 406**: Hawley, chair, Alexander, Gallego, Y. Davis, and Swinford.

**SB 684 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Puente, the house granted the request of the senate for the appointment of a conference committee on **SB 684**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 684**: Uresti, chair, Capelo, Glaze, Solis, and Delisi.

**SB 846 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Naishtat, the house granted the request of the senate for the appointment of a conference committee on **SB 846**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 846**: Naishtat, chair, Najera, Hill, Callegari, and J. Jones.

**SB 1472 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Williams, the house granted the request of the senate for the appointment of a conference committee on **SB 1472**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1472**: Williams, chair, E. Reyna, Goolsby, J. Jones, and Rangel.

**HB 2 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2, A bill to be entitled An Act relating to the regulation of certain political contributions, political expenditures, and political advertising; providing civil and criminal penalties.

Representative Madden moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2**: Gallego, chair, Danburg, Madden, Hodge, and Averitt.

(McReynolds in the chair)

**HB 102 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 102, A bill to be entitled An Act relating to abolishing the electronic imaging program of the Texas Department of Human Services.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 102** by (Record 464): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Marchant; Pitts; Sadler; Tillery.

Absent — Corte; Howard.

STATEMENT OF VOTE

When Record No. 464 was taken, I was temporarily out of the house chamber. I would have voted yes.

Corte

Senate Committee Substitute

CSHB 102, A bill to be entitled An Act relating to the electronic imaging program of the Texas Department of Human Services.

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

SECTION 1. Section 31.0325, Human Resources Code, is amended to read as follows:

Sec. 31.0325. ELECTRONIC IMAGING PROGRAM. (a) In conjunction with other appropriate agencies, the department by rule shall develop a program to prevent welfare fraud by using a type of electronic fingerprint-imaging or photo-imaging of adult and teen parent applicants for and adult and teen parent recipients of financial assistance under this chapter or food stamp benefits under Chapter 33.

(b) In adopting rules under this section, the department shall:

(1) provide for an exemption from the electronic imaging requirements of Subsection (a) for a person who is elderly or disabled if the department determines that compliance with those requirements would cause an undue burden to the person;

(2) establish criteria for an exemption under Subdivision (1); and

(3) ensure that any electronic imaging performed by the department is strictly confidential and is used only to prevent fraud by adult and teen parent recipients of financial assistance or food stamp benefits.

(c) The department shall:

(1) establish the program in conjunction with an electronic benefits transfer program;

(2) use an imaging system; and

(3) provide for gradual implementation of this section by selecting specific counties or areas of the state as test sites.

(d) Each fiscal quarter, the department shall submit to the governor and the legislature a report on the status and progress of the programs in the test sites selected under Subsection (c)(3).

SECTION 2. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation, the state agency shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

(Pitts now present)

HB 445 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 445, A bill to be entitled An Act relating to the imposition by certain municipalities of a sales and use tax dedicated to street maintenance.

On motion of Representative Goodman, the house concurred in the senate amendments to **HB 445** by (Record 465): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse;

Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting -- Marchant; Sadler; Tillery.

Absent — Deshotel; Maxey.

Senate Committee Substitute

CSHB 445, A bill to be entitled An Act relating to the imposition by certain municipalities of a sales and use tax dedicated to street maintenance.

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

SECTION 1. Subtitle C, Title 3, Tax Code, is amended by adding Chapter 327 to read as follows:

CHAPTER 327. MUNICIPAL SALES AND USE TAX FOR STREET MAINTENANCE

Sec. 327.001. DEFINITION. In this chapter, "municipal street" means the entire width of a way held by a municipality in fee or by easement or dedication that has a part open for public use for vehicular travel. The term does not include a designated state or federal highway or road or a designated county road.

Sec. 327.002. MUNICIPAL SALES AND USE TAX ACT APPLICABLE. Except to the extent that a provision of this chapter applies, Chapter 321 applies to the tax authorized by this chapter in the same manner as that chapter applies to the tax authorized by that chapter.

Sec. 327.003. TAX AUTHORIZED. (a) A municipality may adopt the sales and use tax authorized by this chapter at an election held in the municipality.

(b) A municipality may not adopt a tax under this chapter if as a result of the adoption of the tax the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality would exceed two percent at any location in the municipality.

(c) If the voters of a municipality approve the adoption of the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves the increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality would exceed two percent at any location in the municipality, the election to adopt a sales and use tax under this chapter has no effect.

Sec. 327.004. TAX RATE. The rate of the tax authorized by this chapter is one-fourth of one percent.

Sec. 327.005. SALES AND USE TAX EFFECTIVE DATE. (a) The adoption of the tax takes effect 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 notice of the results of the election.

(b) If the comptroller determines that an effective date provided by Subsection (a) will occur before the comptroller can reasonably take the action required to begin collecting the tax, the effective date may be extended by the comptroller until the first day of the next succeeding calendar quarter.

Sec. 327.006. ELECTION PROCEDURE. (a) An election to adopt the tax authorized by this chapter is called by the adoption of an ordinance by the governing body of the municipality.

(b) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local sales and use tax in (name of municipality) at the rate of one-fourth of one percent to provide revenue for maintenance and repair of municipal streets."

Sec. 327.007. REAUTHORIZATION OF TAX. (a) Unless imposition of the sales and use tax authorized by this chapter is reauthorized as provided by this section, the tax expires on:

(1) the fourth anniversary of the date the tax originally took effect under Section 327.005; or

(2) the first day of the first calendar quarter occurring after the fourth anniversary of the date the tax was last reauthorized under this section.

(b) An election to reauthorize the tax is called and held in the same manner as an election to adopt the tax under Section 327.006, except the ballot proposition shall be prepared to permit voting for or against the proposition: "The reauthorization of the local sales and use tax in (name of municipality) at the rate of one-fourth of one percent to continue providing revenue for maintenance and repair of municipal streets."

(c) If an election to reauthorize the tax is not held before the tax expires as provided by Subsection (a), or if a majority of the votes cast in an election to reauthorize the tax do not favor reauthorization, the municipality may not call an election on the question of authorizing a new tax under this chapter before the first anniversary of the date on which the tax expired.

(d) Not later than the 10th day after the date the municipality determines that the tax will expire as provided by Subsection (a), the municipality shall notify the comptroller of the scheduled expiration. The comptroller may delay the scheduled expiration date if the comptroller notifies the municipality that more time is required. The comptroller must provide a new expiration date

that is not later than the last day of the first calendar quarter occurring after the notification to the comptroller.

Sec. 327.008. USE OF TAX REVENUE. Revenue from the tax imposed under this chapter may be used only to maintain and repair municipal streets existing on the date of the election to adopt the tax.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

(Speaker in the chair)

HB 490 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 490, A bill to be entitled An Act relating to the administration and collection of ad valorem taxes.

On motion of Representative Heflin, the house concurred in the senate amendments to **HB 490**.

Senate Committee Substitute

CSHB 490, A bill to be entitled An Act relating to the administration and collection of ad valorem taxes.

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

SECTION 1. Section 6.035(a), Tax Code, is amended to read as follows:

(a) An individual is ineligible to serve on an appraisal district board of directors and is disqualified from employment as chief appraiser if the individual:

(1) is related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an individual who is engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district; or

(2) owns property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless:

(A) the delinquent taxes and any penalties and interest are being paid under an installment payment agreement under Section 33.02; or

(B) a suit to collect the delinquent taxes is deferred or abated under Section 33.06 or 33.065.

SECTION 2. Section 6.24, Tax Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The commissioners court with the approval of the county assessor-collector may contract as provided by the Interlocal Cooperation Act with the governing body of another taxing unit in the county or with the board of directors of the appraisal district for the other unit or the district to perform duties relating to the assessment or collection of taxes for the county. If a

county contracts to have its taxes assessed and collected by another taxing unit or by the appraisal district, except as provided by Subsection (c), the contract shall require the other unit or the district to assess and collect all taxes the county is required to assess and collect.

(c) A contract entered into under Subsection (b) may exclude from the taxes the other unit or the district is required to assess and collect taxes the county is required to assess and collect under one or more of the following provisions:

- (1) Section 23.121;
- (2) Section 23.122;
- (3) Section 23.124;
- (4) Section 23.1241;
- (5) Section 23.1242;
- (6) Section 23.125;
- (7) Section 23.127; or
- (8) Section 23.128.

SECTION 3. Section 6.41(f), Tax Code, is amended to read as follows:

(f) A member of the board may be removed from the board by a majority vote of the appraisal district board of directors. Grounds for removal are:

- (1) a violation of Section 6.412, ~~[or]~~ 6.413, 41.66(f), or 41.69; or
- (2) good cause relating to the attendance of members at called meetings of the board as established by written policy adopted by a majority of the appraisal district board of directors.

SECTION 4. Section 6.412(a), Tax Code, is amended to read as follows:

(a) An individual is ineligible to serve on an appraisal review board if the individual:

(1) is related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an individual who is engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district for which the appraisal review board is established; or

(2) owns property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless:

(A) the delinquent taxes and any penalties and interest are being paid under an installment payment agreement under Section 33.02; or

(B) a suit to collect the delinquent taxes is deferred or abated under Section 33.06 or 33.065.

SECTION 5. Section 22.27(b), Tax Code, is amended to read as follows:

(b) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who filed the statement or report or the owner of property subject to the statement, report, or information or to a representative of either authorized in writing to receive the information;

(3) to the comptroller and the comptroller's ~~[his]~~ employees authorized by the comptroller ~~[him]~~ in writing to receive the information or to an assessor or a chief appraiser if requested in writing;

(4) in a judicial or administrative proceeding relating to property taxation to which the person who filed the statement or report or the owner of the property that is a subject of the statement, report, or information is a party;

(5) for statistical purposes if in a form that does not identify specific property or a specific property owner; ~~or~~

(6) if and to the extent the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain; or

(7) to a taxing unit or its legal representative that is engaged in the collection of delinquent taxes on the property that is the subject of the information.

SECTION 6. Section 25.25, Tax Code, is amended by amending Subsection (b) and adding Subsections (n) and (o) to read as follows:

(b) The chief appraiser may change the appraisal roll at any time to correct a name or address, a determination of ownership, a description of property, multiple appraisals of a property, or a clerical error or other inaccuracy as prescribed by board rule that does not increase the amount of tax liability. Before the 10th day after the end of each calendar quarter, the chief appraiser shall submit to the appraisal review board and to the board of directors of the appraisal district a written report of each change made under this subsection that decreases the tax liability of the owner of the property. The report must include:

(1) a description of each property; and

(2) the name of the owner of that property.

(n) After a chief appraiser certifies a change under Subsection (b) that corrects multiple appraisals of a property, the liability of a taxing unit for a refund of taxes under Section 26.15(f), and any penalty or interest on those taxes, is limited to taxes paid for the tax year in which the appraisal roll is changed and the four tax years preceding that year.

(o) The failure or refusal of a chief appraiser to change an appraisal roll under Subsection (b) is not:

(1) an action that the appraisal review board is authorized to determine under this section;

(2) an action that may be the subject of a suit to compel filed under Subsection (g);

(3) an action that a property owner is entitled to protest under Section 41.41; or

(4) an action that may be appealed under Chapter 42.

SECTION 7. Section 26.15(f), Tax Code, is amended to read as follows:

(f) If a correction decreases the tax liability of a property owner after the owner ~~he~~ has paid the tax, the taxing unit shall refund to the property owner the difference between the tax paid and the tax legally due, except as provided by Section 25.25(n).

SECTION 8. Section 31.11, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) If a taxpayer submits a payment of taxes that exceeds by \$5 or more the amount of taxes owed for a tax year to a taxing unit, the collector for the taxing unit, without charge, shall mail to the taxpayer or the taxpayer's

representative a written notice of the amount of the overpayment accompanied by a refund application form.

SECTION 9. Chapter 31, Tax Code, is amended by adding Section 31.111 to read as follows:

Sec. 31.111. REFUNDS OF DUPLICATE PAYMENTS. (a) The collector of a taxing unit who determines that a person erred in making a payment of taxes because the identical taxes were paid by another person shall refund the amount of the taxes to the person who erred in making the payment.

(b) A refund under Subsection (a) shall be made as soon as practicable after the collector discovers the erroneous payment. The refund shall be accompanied by a description of the property subject to the taxes sufficient to identify the property. If the property is assigned an account number, the collector shall include that number.

(c) Each month, the collector shall inform the auditor of each appropriate taxing unit of refunds of taxes made under Subsection (a) during the preceding month.

SECTION 10. Sections 31.12(a) and (b), Tax Code, are amended to read as follows:

(a) If a refund of a tax provided by Section 11.431(b), 26.07(g), 26.15(f), ~~[or] 31.11, or 31.111~~ is paid on or before the 60th day after the date the liability for the refund arises, no interest is due on the amount refunded. If not paid on or before that 60th day, the amount of the tax to be refunded accrues interest at a rate of one percent for each month or part of a month that the refund is unpaid, beginning with the date on which the liability for the refund arises.

(b) For purposes of this section, liability for a refund arises:

(1) if the refund is required by Section 11.431(b), on the date the chief appraiser notifies the collector for the unit of the approval of the late homestead exemption;

(2) if the refund is required by Section 26.07(g), on the date the results of the election to reduce the tax rate are certified;

(3) if the refund is required by Section 26.15(f):

(A) for a correction to the tax roll made under Section 26.15(b), on the date the change in the tax roll is certified to the assessor for the taxing unit under Section 25.25; or

(B) for a correction to the tax roll made under Section 26.15(c), on the date the change in the tax roll is ordered by the governing body of the taxing unit; ~~[or]~~

(4) if the refund is required by Section 31.11, on the date the auditor for the taxing unit determines that the payment was erroneous or excessive or, if the amount of the refund exceeds the applicable amount specified by Section 31.11(a), on the date the governing body of the unit approves the refund; or

(5) if the refund is required by Section 31.111, on the date the collector for the taxing unit determines that the payment was erroneous.

SECTION 11. Section 33.04, Tax Code, is amended to read as follows:

Sec. 33.04. NOTICE OF DELINQUENCY. ~~[(a)]~~ At least once each year the collector for a taxing unit shall deliver a notice of delinquency to each person whose name appears on the current delinquent tax roll. However, the notice need not be delivered if:

(1) a bill for the tax was not mailed under Section 31.01(f); or
(2) the collector does not know and by exercising reasonable diligence cannot determine the delinquent taxpayer's name and address.

[~~(b) In addition to the notice required by Subsection (a), the collector for each taxing unit in each year divisible by five shall deliver by mail a written notice of delinquency to:~~

~~(1) each person whose name and mailing address are listed on the most recent certified appraisal roll, if the taxes on the property of that person are shown on the collector's records as having been delinquent more than one year; and~~

~~(2) each person who owes a tax on personal property or an interest in a mineral estate that has been delinquent more than one year, if that property or mineral estate is not listed on the most recent certified appraisal roll under that person's name but that person's name and mailing address are known to the collector.~~

~~(c) The collector shall state in the notice required by Subsection (b) the amount of the delinquent tax, penalties, and interest due, the description of the property on which the tax was imposed, and the year for which the tax is delinquent. Each notice required by Subsection (b) to be delivered to the same person for more than one year or on more than one property may be included in a single notice.~~

~~(d) In a suit brought against a person entitled to receive notice under Subsection (b) for the collection of penalties and interest on a tax delinquent more than five years or a multiple of five years, it is an affirmative defense available to the person that the collector did not deliver the notice required by Subsection (b).~~

~~(e) Notwithstanding Subsection (d), interest and penalties on a tax are reinstated and shall be collected by the collector if, subsequent to the collector's failure to deliver the notice required by Subsection (b), the collector delivers the notice in any subsequent year divisible by five. The interest and penalties on the tax are reinstated prospectively and begin to accrue at the rates provided by Section 33.01 on the first day of the first month that begins at least 21 days after the date the collector delivers the subsequent notice.~~

~~(f) A notice under this section is presumed to be delivered when it is deposited in regular first-class mail, postage prepaid, and addressed to the appropriate person under Subsection (b). Notwithstanding Section 1.07, the presumption of delivery under this section may not be rebutted with evidence of failure to receive the notice.]~~

SECTION 12. Sections 33.06(a), (d), and (e), Tax Code, are amended to read as follows:

(a) An individual is entitled to defer or abate a suit to collect a delinquent tax if the individual [he] is 65 years of age or older and the tax was imposed against property that the individual [he] owns and occupies as a residence homestead [the property on which the tax subject to the suit is delinquent].

(d) A tax lien remains on the property and interest continues to accrue during the period collection of taxes is deferred or abated under [as provided by] this section. The annual interest rate during the deferral or abatement period is eight percent [a year] instead of the rate provided by Section 33.01

~~[of this code]~~. Interest and penalties that accrued or that were incurred or imposed under Section 33.01 or 33.07 before the date the individual files the deferral affidavit under Subsection (b) or the date the judgment abating the suit is entered, as applicable, are preserved. A penalty under Section 33.01 is ~~[may]~~ not ~~incurred~~ ~~[be imposed]~~ during a deferral or ~~abatement~~ period. The additional penalty under ~~[provided by]~~ Section 33.07 ~~[of this code]~~ may be imposed and collected only if the taxes for which collection is deferred or abated remain delinquent on or after the 91st day after the date the deferral or ~~abatement~~ period expires. A plea of limitation, laches, or want of prosecution does not apply against the taxing unit because of deferral or ~~abatement~~ of collection as provided by this section.

(e) Each year the chief appraiser for each appraisal district shall publicize in a manner reasonably designed to notify all residents of the district or county of the provisions of this section and, specifically, the method by which eligible persons may obtain a deferral or ~~abatement~~.

SECTION 13. Section 33.065(g), Tax Code, is amended to read as follows:

(g) A tax lien remains on the property and interest continues to accrue during the period collection of delinquent taxes is deferred or abated under ~~[as provided by]~~ this section. The annual interest rate during the deferral or ~~abatement~~ period is eight percent instead of the rate provided by Section 33.01. Interest and penalties that accrued or that were incurred or imposed under Section 33.01 or 33.07 before the date the individual files the deferral affidavit under Subsection (c) or the date the judgment abating the suit is entered, as applicable, are preserved. A penalty is ~~[may]~~ not ~~incurred~~ ~~[be imposed]~~ on the delinquent taxes for which collection is deferred or abated during a deferral or ~~abatement~~ period. The additional penalty under ~~[provided by]~~ Section 33.07 may be imposed and collected only if the delinquent taxes for which collection is deferred or abated remain delinquent on or after the 91st day after the date the deferral or ~~abatement~~ period expires. A plea of limitation, laches, or want of prosecution does not apply against the taxing unit because of deferral or ~~abatement~~ of collection as provided by this section.

SECTION 14. Section 33.07(a), Tax Code, is amended to read as follows:

(a) A taxing unit or appraisal district may provide, in the manner required by law for official action by the body, that taxes that become delinquent on or after February 1 of a year but not later than May 1 of that year and that remain delinquent on July 1 of the year in which they become delinquent incur an additional penalty to defray costs of collection, if the unit or district or another unit that collects taxes for the unit has contracted with an attorney pursuant to Section 6.30 ~~[of this code]~~. The amount of the penalty may not exceed ~~[+5 percent of]~~ the amount of the compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes~~[-, penalty, and interest due]~~.

SECTION 15. Section 33.08(b), Tax Code, is amended to read as follows:

(b) The governing body of the taxing unit or appraisal district, in the manner required by law for official action, may provide that taxes that become delinquent on or after June 1 under Section 26.07(f), 26.15(e), 31.03, 31.031, 31.032, or 31.04 incur an additional penalty to defray costs of collection. The amount of the penalty may not exceed ~~[+5 percent of]~~ the amount of the

compensation specified in the applicable contract with an attorney under Section 6.30 to be paid in connection with the collection of the delinquent taxes[, penalty, and interest due].

SECTION 16. Subchapter A, Chapter 33, Tax Code, is amended by adding Section 33.09 to read as follows:

Sec. 33.09. TRANSFER OF DELINQUENT COUNTY EDUCATION DISTRICT TAXES IN CERTAIN COUNTIES. (a) This section applies only to a county with a population of less than 22,000.

(b) In this section, "county education district taxes" means ad valorem taxes imposed by a county education district under former Section 20.945, Education Code.

(c) The successor-in-interest to a county education district may transfer to the component school districts of the county education district all delinquent county education district taxes. The amount transferred to each school district must be in proportion to the ratio that the school district's weighted average daily attendance for the 1992-1993 school year bears to the weighted average daily attendance of all school districts in the county education district for that year. For purposes of this section, "weighted average daily attendance" is determined in the manner provided by former Section 16.302, Education Code, as that section existed September 1, 1992.

(d) A school district to which delinquent county education district taxes are transferred under this section is responsible for:

(1) collecting or contracting for the collection of the taxes; and

(2) preparing and submitting any report required by the commissioner of education or the comptroller of the amount of delinquent county education taxes collected.

(e) This section expires February 1, 2014.

SECTION 7. Section 33.21, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) In this subchapter, "personal property" means:

(1) tangible personal property;

(2) cash on hand;

(3) notes or accounts receivable, including rents and royalties;

(4) demand or time deposits; and

(5) certificates of deposit.

SECTION 18. Section 33.23, Tax Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) After a tax warrant is issued, the collector or peace officer shall take possession of the property pending its sale. The person against whom a tax warrant is issued or another person having possession of property of the person against whom a tax warrant is issued shall surrender the property on demand. Pending the sale of the property, the collector or peace officer may secure the property at the location where it is seized or may move the property to another location.

(d) A person who possesses personal property owned by the person against whom a tax warrant is issued and who surrenders the property on demand is not liable to any person for the surrender. At the time of surrender, the collector shall provide the person surrendering the property a sworn receipt describing the property surrendered.

(e) Subsection (d) does not create an obligation on the part of a person who surrenders property owned by the person against whom a tax warrant is issued that exceeds or materially differs from that person's obligation to the person against whom the tax warrant is issued.

SECTION 19. Section 33.25, Tax Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), after [After] a seizure of personal property, the collector shall make a reasonable inquiry to determine the identity and to ascertain the address of any person having an interest in the property other than the person against whom the tax warrant is issued. The collector [He] shall provide in writing the name and address of each other person the collector identifies as having an interest in the property to the peace officer charged with executing the warrant. The peace officer shall deliver as soon as possible a written notice stating the time and place of the sale and briefly describing the property seized to the person against whom the warrant is issued and to any other person having [he discovers has] an interest in the property whose name and address the collector provided to the peace officer. The posting of the notice and the sale of the property shall be conducted by the peace officer in the manner required for the sale under execution of personal property [he ascertains].

(c) After a seizure of personal property defined by Sections 33.21(d)(2)-(5), the collector shall apply the seized property toward the payment of the taxes, penalties, and interest included in the application for warrant and all costs of the seizure.

SECTION 20. Section 33.41, Tax Code, is amended by adding Subsections (d), (e), (f), (g), and (h) to read as follows:

(d) In a suit brought under this section, a court shall grant a taxing unit injunctive relief on a showing that the personal property on which the taxing unit seeks to foreclose a tax lien is about to be:

- (1) removed from the county in which the tax was imposed; or
- (2) transferred to another person and the other person is not a buyer in the ordinary course of business, as defined by Section 1.201, Business & Commerce Code.

(e) Injunctive relief granted under Subsection (d) must:

- (1) prohibit alienation or dissipation of the property;
- (2) order that proceeds from the sale of the property in an amount equal to the taxes claimed to be due be paid into the court registry; or
- (3) order any other relief to ensure the payment of the taxes owed.

(f) A taxing unit is not required to file a bond as a condition to the granting of injunctive relief under Subsection (d).

(g) In a petition for relief under Subsection (d), the taxing unit may also seek to secure the payment of taxes for a current tax year that are not delinquent and shall estimate the amount due if those taxes are not yet assessed.

(h) The tax lien attaches to any amounts paid into the court's registry with the same priority as for the property on which taxes are owed.

SECTION 21. Section 33.42(c), Tax Code, is amended to read as follows:

(c) If a tax required by this section to be included in a suit is omitted from the judgment in the suit, the taxing unit may not enforce collection of the tax at a later time except as provided by Section 34.04(c)(2).

SECTION 22. Section 33.43(a), Tax Code, is amended to read as follows:

(a) A petition initiating a suit to collect a delinquent property tax is sufficient if it alleges that:

(1) the taxing unit is legally constituted and authorized to impose and collect ad valorem taxes on property;

(2) tax in a stated amount was legally imposed on each separately described property for each year specified and on each person named if known who owned the property on January 1 of the year for which the tax was imposed;

(3) the tax was imposed in the county in which the suit is filed;

(4) the tax is delinquent;

(5) penalties, interest, and costs authorized by law in a stated amount for each separately assessed property are due;

(6) the taxing unit is entitled to recover each penalty that is incurred and all interest that accrues on delinquent taxes imposed on the property from the date of the judgment to the date of the sale under Section 34.01 or under Section 253.010, Local Government Code [34.015], as applicable, if the suit seeks to foreclose a tax lien;

(7) the person sued owned the property on January 1 of the year for which the tax was imposed if the suit seeks to enforce personal liability;

(8) the person sued owns the property when the suit is filed if the suit seeks to foreclose a tax lien;

(9) the taxing unit asserts a lien on each separately described property to secure the payment of all taxes, penalties, interest, and costs due if the suit seeks to foreclose a tax lien;

(10) all things required by law to be done have been done properly by the appropriate officials; and

(11) the attorney signing the petition is legally authorized to prosecute the suit on behalf of the taxing unit.

SECTION 23. Section 33.48(a), Tax Code, is amended to read as follows:

(a) In addition to other costs authorized by law, a taxing unit is entitled to recover the following costs and expenses in a suit to collect a delinquent tax:

(1) all usual court costs, including the cost of serving process;

(2) costs of filing for record a notice of lis pendens against property;

(3) expenses of foreclosure sale;

(4) reasonable expenses that are incurred by the taxing unit in determining the name, identity, and location of necessary parties and in procuring necessary legal descriptions of the property on which a delinquent tax is due; ~~and~~

(5) attorney's fees in the amount of 15 percent of the total amount of taxes, penalties, and interest due the unit; ~~and~~

(6) reasonable attorney ad litem fees approved by the court that are incurred in a suit in which the court orders the appointment of an attorney to represent the interests of a defendant served with process by means of citation by publication or posting.

SECTION 24. Section 33.49(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsection (b) [~~of this section~~], a taxing unit

is not liable in a suit to collect taxes for court costs, including any fees for service of process, an attorney ad litem, arbitration, or mediation, and may not be required to post security for costs.

SECTION 25. Sections 33.56(a), (c), (d), and (e), Tax Code, are amended to read as follows:

(a) If, in a suit to collect a delinquent tax, a court renders a judgment for foreclosure of a tax lien on behalf of a taxing unit, any [the] taxing unit that was a party to the judgment may file a petition to vacate the judgment on one or more of the following grounds [for]:

(1) failure to join a person needed for just adjudication under the Texas Rules of Civil Procedure, including a taxing unit required to be joined under Section 33.44(a);

(2) failure to serve a person needed for just adjudication under the Texas Rules of Civil Procedure, including a taxing unit required to be joined under Section 33.44(a); ~~or~~

(3) failure of the judgment to adequately describe the property that is the subject of the suit; or

(4) that the property described in the judgment was subject to multiple appraisals for the tax years included in the judgment.

(c) The taxing unit may not file a petition if a tax sale of the property has occurred unless:

(1) the tax sale has been vacated by an order of a court; ~~or~~

(2) the property was bid off [sold] to a ~~[the]~~ taxing unit under Section 34.01(j) ~~[34.01(c)]~~ and has not been resold; or

(3) the tax sale or resale purchaser, or the purchaser's heirs, successors, or assigns, consents to the petition.

(d) Consent of the purchaser to a petition may be shown by:

(1) a written memorandum signed by the purchaser and filed with the court;

(2) the purchaser's joinder in the taxing unit's petition;

(3) a statement of the purchaser made in open court on the record in a hearing on the petition; or

(4) the purchaser's signature of approval to an agreed order to grant the petition.

(e) A copy of the petition must be served in a manner authorized by Rule 21a, Texas Rules of Civil Procedure, on each party to the delinquent tax suit.

(f) ~~[(c)]~~ If the court grants the petition, the court shall enter an order providing that:

(1) the judgment, any tax sale based on that judgment, and any subsequent resale are [is] vacated;

(2) any applicable tax deed or applicable resale deed is canceled;

(3) [and] the delinquent tax suit is revived; and

(4) except in a case in which judgment is vacated under Subsection (a)(4), the taxes, penalties, interest, and attorney's fees and costs, and the liens that secure each of those items, are reinstated.

SECTION 26. Sections 34.01(b), (m), (o), (p), and (r), Tax Code, are amended to read as follows:

(b) On receipt of an order of sale of real property, the officer charged with selling the property shall endorse on the order the date and exact time when

the officer received the order. The endorsement is a levy on the property without necessity for going upon the ground. The officer shall calculate the total amount due under the judgment, including all taxes, penalties, and interest, plus any other amount awarded by the judgment, court costs, and the costs of the sale. The costs of a sale include~~[-including]~~ the costs of advertising, and deed recording fees anticipated to be paid in connection with the sale of the property. To assist the officer in making the calculation, the collector of any taxing unit that is party to the judgment may provide the officer with a certified tax statement showing the amount of the taxes included in the judgment that remain due that taxing unit and all penalties, interest, and attorney's fees provided by the judgment as of the date of the proposed sale. If a certified tax statement is provided to the officer, the officer shall rely on the amount included in the statement and is not responsible or liable for the accuracy of the applicable portion of the calculation. A certified tax statement is not required to be sworn to and is sufficient if the tax collector or the collector's deputy signs the statement.

(m) The officer making the sale shall prepare a deed to the purchaser of real property at the sale, to any other person whom the purchaser may specify, or to the taxing unit to which the property was bid off. The taxing unit that requested the order of sale may elect to prepare a deed for execution by the officer. If the taxing unit prepares the deed, the officer shall execute that deed. An officer who executes a deed prepared by the taxing unit is not responsible or liable for any inconsistency, error, or other defect in the form of the deed. As soon as practicable after a deed is executed by the officer, the [The] officer shall ~~[execute the deed and]~~ either file the deed for recording with the county clerk or deliver the executed deed to the taxing unit that requested the order of sale, which shall file the deed for recording with the county clerk. The county clerk shall file and record each deed filed under this subsection and after recording shall return the deed to the grantee.

(o) If ~~[Notwithstanding Subsection (j), if]~~ a ~~[sufficient]~~ bid sufficient to pay the amount specified by Subsection (p) is not received, the officer making the sale, with the consent of the collector who applied for the tax warrant, may offer ~~[bid off]~~ property seized under Subchapter E, Chapter 33, to a person described by Section 11.181 or 11.20 for less than that ~~[the tax warrant]~~ amount ~~[or the market value of the property]~~. If the property is offered to a person described by Section 11.181 or 11.20, the officer making the sale shall reopen the bidding at the amount of that person's bid and bid off the property to the highest bidder. Consent to the sale by the taxing units entitled to receive proceeds of the sale is not required. The acceptance of a bid by the officer under this subsection is conclusive and binding on the question of its sufficiency. An action to set aside the sale on the grounds that a bid is insufficient may not be sustained, except that a taxing unit that participates in distribution of proceeds of the sale may file an action before the first anniversary of the date of the sale to set aside the sale on the grounds of fraud or collusion between the officer making the sale and the purchaser.

(p) Except as provided by Subsection (o), property seized under Subchapter E, Chapter 33, may not be sold for an amount that is less than the lesser of the market value of the property as specified in the warrant or the total amount of taxes, penalties, interest, costs, and other claims for which the

warrant was issued ~~[due on the property]~~. If a sufficient bid is not received by the officer making the sale, the officer shall bid off the property to a taxing unit in the manner specified by Subsection (j) and subject to the other provisions of that subsection. A taxing unit that takes title to property ~~[seized] under this subsection [that subchapter]~~ takes title ~~[to the property]~~ for the use and benefit of that taxing unit and all other taxing units that established tax liens in the suit or that, on the date of the seizure, were owed delinquent taxes on the property.

(r) A sale of real property under this section must take place at the county courthouse in the county in which the land is located. The commissioners court of the county may designate the area in the county courthouse where sales under this section must take place and shall record any designated area in the real property records of the county. If the commissioners court designates an area in the courthouse for sales, a sale must occur in that area. If the commissioners court does not designate an area in the courthouse for sales, a [The] sale must [shall] occur in the same area [location] in the courthouse that is designated by the commissioners court [of the county] for the sale of real property under Section 51.002, Property Code.

SECTION 27. Section 34.04, Tax Code, is amended by amending Subsection (c) and adding Subsections (e)-(i) to read as follows:

(c) At the hearing the court shall order that the proceeds be paid according to the following priorities to each party that establishes its claim to the proceeds:

(1) to the tax sale purchaser if the tax sale has been adjudged to be void and the purchaser has prevailed in an action against the taxing units under Section 34.07(d) by final judgment;

(2) to a taxing unit for any taxes, penalties, or interest that have become due or delinquent on the subject property subsequent to the date of the judgment or that were omitted from the judgment by accident or mistake;

(3) ~~[(2)]~~ to any other lienholder, consensual or otherwise, for the amount due under a lien, in accordance with the priorities established by applicable law;

(4) ~~[(3)]~~ to a taxing unit for any unpaid taxes, penalties, interest, or other amounts adjudged due under the judgment that were not satisfied from the proceeds from the tax sale; and

(5) ~~[(4)]~~ to each owner of the property.

(e) an order under this section is appealable.

(f) A person may not take an assignment of an owner's claim to excess proceeds unless:

(1) the assignment is taken on or after the 36th day after the date the excess proceeds are deposited in the registry of the court;

(2) the assignment is in writing and signed by the assignor; and

(3) the assignment document contains a sworn statement by the assignor affirming:

(A) that the assignment was given voluntarily;

(B) the date on which the assignment was made and that the date was not earlier than the 36th day after the date the excess proceeds were deposited in the registry of the court;

(C) that the assignor has received the notice from the clerk required by Section 34.03;

(D) the nature and amount of consideration given for the assignment;

(E) the circumstances under which the excess proceeds are in the registry of the court;

(F) the amount of the claim to excess proceeds in the registry of the court;

(G) that the assignor has made no other assignments of the assignor's claim to the excess proceeds; and

(H) that the assignor knows that the assignor may retain counsel.

(g) An assignee who obtains excess proceeds without complying with Subsection (f) is liable to the assignor for the amount of excess proceeds obtained plus attorney's fees and expenses.

(h) An assignee who files a petition setting forth a claim to excess proceeds must attach a copy of the assignment document and produce the original of the assignment document in court at the hearing on the petition. If the original assignment document is lost, the assignee must obtain the presence of the assignor to testify at the hearing.

(i) A fee charged to obtain excess proceeds for an owner may not be greater than 25 percent of the amount obtained or \$1,000, whichever is less.

SECTION 28. Sections 34.05(d) and (e), Tax Code, are amended to read as follows:

(d) Except as provided by this subsection, all public sales requested as provided by Subsection (c) shall be conducted in the manner prescribed by the Texas Rules of Civil Procedure for the sale of property under execution. The notice of the sale must contain a description of the property to be sold, ~~[which must be a legal description in the case of real property,]~~ the number and style of the suit under which the property was sold at the tax foreclosure sale, and the date of the tax foreclosure sale. The description of the property in the notice is sufficient if it is stated in the manner provided by Section 34.01(f). If the commissioners court of a county by order specifies the date or time at which or location in the county where a public sale requested under Subsection (c) shall be conducted, the sale shall be conducted on the date and at the time and location specified in the order. The acceptance of a bid by the officer conducting the sale is conclusive and binding on the question of its sufficiency. An action to set aside the sale on the grounds that the bid is insufficient may not be sustained in court, except that a taxing unit that participates in distribution of proceeds of the sale may file an action before the first anniversary of the date of the sale to set aside the sale on the grounds of fraud or collusion between the officer making the sale and the purchaser. On conclusion of the sale, the officer making the sale shall prepare a deed to the purchaser. The taxing unit that requested the sale may elect to prepare a deed for execution by the officer. If the taxing unit prepares the deed, the officer shall execute that deed. An officer who executes a deed prepared by the taxing unit is not responsible or liable for any inconsistency, error, or other defect in the form of the deed. As soon as practicable after a deed is executed by the officer, the [The] officer shall [execute the deed and] either file the deed for recording with the county clerk or deliver the executed deed to the taxing unit that requested the sale, which shall file the deed for recording with the

county clerk. The county clerk shall file and record each deed under this subsection and after recording shall return the deed to the grantee.

(e) The presiding officer of a taxing unit selling real property under Subsection (h) or (i), under Section 34.051, or under Section 253.010, Local Government Code, or the sheriff or constable selling real property under Subsections (c) and (d) [pursuant to this section] shall execute a deed to the property conveying to the purchaser the right, title, and interest acquired or held by each taxing unit that was a party to the judgment foreclosing tax liens on the property. The conveyance shall be made subject to any remaining right of redemption at the time of the sale.

SECTION 29. Section 34.051(b), Tax Code, is amended to read as follows:

(b) Any taxing unit may enter into an interlocal agreement with the municipality for the resale of tax foreclosed properties to be used for a purpose consistent with the municipality's urban redevelopment plans or the municipality's affordable housing policy. If the tax foreclosed property is resold pursuant to this section to be used for a purpose consistent with the municipality's urban redevelopment plan or affordable housing policy, the deed of conveyance must refer to or set forth the applicable terms of the urban redevelopment plan or affordable housing policy. Any such interlocal agreement should include the following:

(1) a general statement and goals of the municipality's urban redevelopment plans or affordable housing policy, as applicable;

(2) a statement that the interlocal agreement concerns only tax foreclosed property that is either vacant or distressed and has a tax delinquency of six or more years;

(3) a statement that the properties will be used only for a purpose consistent with an urban redevelopment plan or affordable housing policy, as applicable, that is primarily aimed at providing housing for families of low or moderate income;

(4) a statement that the principal goal of the interlocal agreement is to provide an efficient mechanism for returning deteriorated or unproductive properties to the tax rolls, enhancing the value of ownership to the surrounding properties, and improving the safety and quality of life in deteriorating neighborhoods; and

(5) a provision that all properties are sold subject to any right of redemption.

SECTION 30. Section 34.07, Tax Code, is amended by amending Subsection (d) and adding Subsection (f) to read as follows:

(d) In lieu of pursuing the subrogation rights provided by this section to which a purchaser is subrogated, a purchaser at a void tax sale or tax resale may elect to file an action against the taxing units to which [the] proceeds of the sale were distributed to recover an [the] amount from each taxing unit equal to the distribution of taxes, penalties, interest, and attorney's fees the taxing unit received [paid at the sale]. In a suit filed under this subsection, the purchaser may include a claim for, and is entitled to recover, any excess proceeds of the sale that remain on deposit in the registry of the court or, in the alternative, is entitled to have judgment against any party to whom the excess proceeds have been distributed. A purchaser who files a suit authorized by this subsection waives all rights of subrogation otherwise provided by this section. This subsection applies only to an original

purchaser at a tax sale or resale and only if that purchaser has not subsequently sold the property to another person.

(f) A suit filed against the taxing units under Subsection (d) may not be maintained unless the action is instituted before the first anniversary of the date of sale or resale. In this subsection:

(1) "Date of sale" means the first Tuesday of the month on which the sheriff or constable conducted the sale of the property under Section 34.01.

(2) "Date of resale" means the date on which the grantor's acknowledgment was taken or, in the case of multiple grantors, the latest date of acknowledgment by the grantors as shown in the deed.

SECTION 31. Section 34.21(b), Tax Code, is amended to read as follows:

(b) If property that was used as the owner's residence homestead or was land designated for agricultural use when the suit or the application for the warrant was filed is bid off to a taxing unit under Section 34.01(j) or (p) and has not been resold by the taxing unit, the owner having a right of redemption may redeem the property on or before the second anniversary of the date on which the deed of the taxing unit is filed for record by paying the taxing unit:

(1) the lesser of the amount of the judgment against the property or the market value of the property as specified in that judgment, plus the amount of the fee for filing the taxing unit's deed and the amount spent by the taxing unit as costs on the property, if the property was judicially foreclosed and bid off to the taxing unit under Section 34.01(j); or

(2) the lesser of the amount of taxes, penalties, interest, and costs for which the warrant was issued or the market value of the property as specified in the warrant, plus the amount of the fee for filing the taxing unit's deed and the amount spent by the taxing unit as costs on the property, if the property was seized under Subchapter E, Chapter 33, and bid off to the taxing unit under Section 34.01(p).

SECTION 32. Section 42.02, Tax Code, is amended to read as follows:

Sec. 42.02. RIGHT OF APPEAL BY CHIEF APPRAISER. On written approval of the board of directors of the appraisal district, the [The] chief appraiser is entitled to appeal an order of the appraisal review board determining:

(1) a taxpayer protest as provided by Subchapter C, Chapter 41; or

(2) a taxpayer's motion to change the appraisal roll filed under Section 25.25 [of this code if he has written approval of the local appraisal district board of directors to appeal].

SECTION 33. Section 34.015, Tax Code, as amended by Chapters 181 and 817, Acts of the 76th Legislature, Regular Session, 1999, is redesignated as Section 253.010, Local Government Code, and is amended to conform to the changes made by those chapters to read as follows:

Sec. 253.010. SALE OF REAL PROPERTY TO CERTAIN NONPROFIT OR RELIGIOUS ORGANIZATIONS. (a) Notwithstanding any other provision of law, the governing body of a municipality may provide for the manner in which any land acquired by the municipality may be sold if the land is sold to:

(1) a nonprofit organization that develops housing for low-income individuals and families as a primary activity to promote community-based revitalization of the municipality;

(2) a nonprofit corporation described by 26 U.S.C. Section 501(c)(3) that:

(A) has been incorporated in this state for at least one year;

(B) has a corporate purpose to develop affordable housing that is stated in its articles of incorporation, bylaws, or charter;

(C) has at least one-fourth of its board of directors residing in the municipality; and

(D) engages primarily in the building, repair, rental, or sale of housing for low-income individuals and families; or

(3) a religious organization that:

(A) owns other property located in the municipality that is exempt from taxation under Section 11.20, Tax Code; and

(B) has entered into a written agreement with the municipality regarding the revitalization of the land.

(b) A municipality operating under this section may by ordinance determine the individuals and families who qualify as low-income individuals and families under Subsection (a)(1) or (2). In adopting an ordinance under this subsection, the municipality shall consider median income of individuals and median family income in the area.

SECTION 34. Section 17.091(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) In a suit to collect delinquent [~~growing out of~~] property taxes [~~taxation~~] by the state or a [~~legal~~] subdivision of the state in which a person who is a defendant is a nonresident, the secretary of state is an agent for service of process on that defendant if the defendant owns [~~owned~~], has [~~had~~], or claims an [~~claimed a taxable~~] interest in property in this state that is the subject of the suit [~~on the first day of a tax year for which taxes have not been paid~~].

SECTION 35. This Act takes effect September 1, 2001.

SECTION 36. The change in law to Section 6.035(a), Tax Code, made by this Act applies to a person who is serving on the board of directors of an appraisal district on the effective date of this Act, a person appointed to the board of directors of an appraisal district after that date, a person serving as a chief appraiser of an appraisal district on the effective date of this Act, and a person appointed as a chief appraiser after that date.

SECTION 37. Section 6.24, Tax Code, as amended by this Act applies to a contract for the assessment and collection of taxes that is entered into under that section on or after the effective date of this Act. A contract for the assessment and collection of taxes that was entered into before the effective date of this Act is covered by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 38. The change in law to Section 6.412(a), Tax Code, made by this Act applies to a person who is serving on an appraisal review board on the effective date of this Act and to a person appointed to serve on an appraisal review board after that date.

SECTION 39. The changes in law made by this Act to Sections 31.11 and 31.12, Tax Code, and Section 31.111, Tax Code, as added by this Act, apply only to ad valorem taxes imposed in a tax year that begins on or after January 1, 2002.

SECTION 40. Section 33.04, Tax Code, as amended by this Act, does not apply to taxes subject to a delinquent tax suit pending before the effective date of this Act. Section 33.04, Tax Code, as amended by this Act, applies to all other taxes that became delinquent before the effective date of this Act or that become delinquent on or after that date. Penalties and interest on a delinquent tax are not canceled under Section 33.04, Tax Code, for failure to deliver any notice under that section as it existed immediately before the effective date of this Act. A delinquent tax that is the subject of a collection suit filed before the effective date of this Act is governed by Section 33.04, Tax Code, as that section existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 41. Sections 33.06 and 33.065, Tax Code, as amended by this Act, apply to penalties and interest that accrued on a delinquent tax before September 1, 2001, or that accrue on or after that date, regardless of whether the deferral or abatement period under the applicable section of that code began before September 1, 2001, or begins on or after that date.

SECTION 42. Sections 33.21, 33.23, and 33.25, Tax Code, as amended by this Act, apply only to a case in which an application for a tax warrant under Subchapter B, Chapter 33, Tax Code, is filed on or after the effective date of this Act. A case in which the application for a tax warrant was filed under that subchapter before the effective date of this Act is governed by the law in effect on the date the application for the tax warrant was filed, and the former law is continued in effect for that purpose.

SECTION 43. Section 33.41, Tax Code, as amended by this Act, applies to a suit that was filed before September 1, 2001, or that is filed on or after that date.

SECTION 44. Sections 33.42 and 34.04, Tax Code, as amended by this Act, apply to the disposition of excess proceeds from a property tax foreclosure or a summary sale of seized property, regardless of the date on which the judgment was rendered, the tax sale was conducted, or the deposit of proceeds with the court was made.

SECTION 45. Sections 33.48 and 33.49, Tax Code, as amended by this Act, apply to a suit that was filed before September 1, 2001, or that is filed on or after that date and to a judgment on the merits that is entered on or after that date.

SECTION 46. Section 33.56, Tax Code, as amended by this Act, applies to a tax foreclosure judgment that was rendered before September 1, 2001, or that is rendered on or after that date.

SECTION 47. (a) Section 34.01, Tax Code, as amended by this Act, applies to each tax sale that is conducted on or after September 1, 2001, regardless of whether the judgment on which the sale is based was entered before, on, or after that date.

(b) For purposes of this section, the date on which a tax sale was conducted is considered to be the first Tuesday of the month in which the public sale occurs.

SECTION 48. (a) Section 34.05, Tax Code, as amended by this Act, applies to a resale of property that is conducted on or after September 1, 2001, regardless of whether the judgment was signed before that date or is signed on or after that date.

(b) For purposes of this section, the date on which a resale is conducted is considered to be:

(1) the date on which a public sale occurs under Section 34.05(c), Tax Code; or

(2) for a sale under Section 34.051 or 34.05(h) or (i), Tax Code, or under Section 253.010, Local Government Code, the date on which the grantor's acknowledgment was taken or, if multiple grantors, the latest date of acknowledgment of those grantors.

SECTION 49. Section 34.07, Tax Code, as amended by this Act, applies to a suit by the purchaser at a void tax sale or tax resale filed on or after the effective date of this Act regardless of the date of the tax sale or tax resale. A suit filed by a purchaser before the effective date of this Act is governed by Section 34.07, Tax Code, as that law existed immediately before that date, and the former law is continued in effect for that purpose.

SECTION 50. Section 34.21, Tax Code, as amended by this Act, applies to a redemption of property sold for taxes under a judgment rendered or tax warrant that was issued before September 1, 2001, or that is rendered or issued on or after that date.

SECTION 51. Section 17.091, Civil Practice and Remedies Code, as amended by this Act, applies to a suit that was filed before September 1, 2001, or that is filed on or after that date.

HB 606 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 606, A bill to be entitled An Act relating to prohibiting certain health benefit plans from requiring the use of hospitalists by participating physicians.

Representative Smithee moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 606**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 606**: Smithee, chair, Eiland, G. Lewis, Averitt, and Uresti.

HB 663 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative R. Lewis called up with senate amendments for consideration at this time,

On motion of Representative R. Lewis, the house concurred in the senate amendments to **HB 663**.

Senate Committee Substitute

CSHB 663, A bill to be entitled An Act relating to the regulation of tanning facilities.

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

SECTION 1. Section 145.002, Health and Safety Code, is amended to read as follows:

Sec. 145.002. DEFINITIONS. In this chapter:

(1) "Authorized agent" means an employee of the department designated by the commissioner to enforce this chapter.

(2) "Fitzpatrick scale" means the following scale for classifying a skin type, based on the skin's reaction to the first 10 to 45 minutes of sun exposure after the winter season:

<u>Skin Type</u>	<u>Sunburning and Tanning History</u>
<u>1</u>	<u>Always burns easily; never tans</u>
<u>2</u>	<u>Always burns easily; tans minimally</u>
<u>3</u>	<u>Burns moderately; tans gradually</u>
<u>4</u>	<u>Burns minimally; always tans well</u>
<u>5</u>	<u>Rarely burns; tans profusely</u>
<u>6</u>	<u>Never burns; deeply pigmented.</u>

(3) [(2)] "Health authority" has the meaning assigned by Section 121.021.

(4) [(3)] "Operator" means an owner of a tanning facility or an agent of an owner of a tanning facility.

(5) [(4)] "Person" means an individual, partnership, corporation, or association.

(6) [(5)] "Phototherapy device" means a piece of equipment that emits ultraviolet radiation and is used by a health care professional in the treatment of disease.

(7) [(6)] "Tanning device" means a device under Section 431.002 and includes any equipment, including a sunlamp, tanning booth, and tanning bed, that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and is used for the tanning of human skin. The term also includes any accompanying equipment, including protective eyewear, timers, and handrails.

(8) [(7)] "Tanning facility" means a business that provides persons access to or use of tanning devices.

SECTION 2. Section 145.005(a), Health and Safety Code, is amended to read as follows:

(a) A tanning facility shall give each customer a written statement warning that:

(1) failure to use the eye protection provided to the customer by the tanning facility may result in damage to the eyes;

(2) overexposure to ultraviolet light causes burns;

(3) repeated exposure may result in premature aging of the skin and skin cancer;

(4) abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain:

- (A) foods;
- (B) cosmetics; or
- (C) medications, including:
 - (i) tranquilizers;
 - (ii) diuretics;
 - (iii) antibiotics;
 - (iv) high blood pressure medicines; or
 - (v) birth control pills; ~~and~~

(5) any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device;

(6) a person with skin that always burns easily and never tans should avoid a tanning device; and

(7) a person with a family or past medical history of skin cancer should avoid a tanning device.

SECTION 3. Sections 145.006(a) and (b), Health and Safety Code, are amended to read as follows:

(a) A tanning facility shall post a warning sign in a conspicuous location where it is readily visible by persons entering the establishment. The board by rule shall specify the size, design, and graphic design of the sign. The sign must have dimensions of at least 11 inches by 17 inches and must contain the following wording:

DANGER: ULTRAVIOLET RADIATION

Repeated exposure to ultraviolet radiation may cause chronic sun damage characterized by wrinkling, dryness, fragility, bruising of the skin, and skin cancer.

Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.

Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women taking oral contraceptives who use this product may develop discolored skin.

A customer may call the Texas Department of Health at (insert toll-free telephone number) to report an alleged injury regarding this tanning facility.

**IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN
FROM USE OF AN ULTRAVIOLET LAMP OR SUNLAMP.**

(b) A tanning facility operator shall also post a warning sign at each tanning device in a conspicuous location that is readily visible to a person about to use the device. The board by rule shall specify the size, design, and graphic design of the sign. The sign must have dimensions of at least 11 inches by 17 inches and must contain the following wording:

DANGER: ULTRAVIOLET RADIATION

1. Follow the manufacturer's instructions for use of this device.

2. Avoid too frequent or lengthy exposure. As with natural sunlight, exposure can cause serious eye and skin injuries and allergic reactions. Repeated exposure may cause skin cancer.

3. Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent damage to the eyes.

4. Do not sunbathe before or after exposure to ultraviolet radiation from sunlamps.

5. Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medication, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women using oral contraceptives who use this product may develop discolored skin.

A customer may call the Texas Department of Health at (insert toll-free telephone number) to report an alleged injury regarding this tanning device.

IF YOU DO NOT TAN IN THE SUN, YOU ARE UNLIKELY TO TAN
FROM USE OF THIS DEVICE.

SECTION 4. Section 145.008, Health and Safety Code, is amended by amending Subsections (e), (f), (g), and (h) and adding Subsections (i), (j), and (k) to read as follows:

(e) Before a customer who is 18 years of age or older uses a tanning facility's tanning [facility] device for the first time and each time a person executes or renews a contract to use a tanning facility [device], the person must provide photo identification and sign a written statement acknowledging that the person has read and understood the required warnings before using the device and agrees to use protective eyewear.

(f) To ensure the proper operation of the tanning equipment, a tanning facility may not allow a person younger than 13 years of age to use a tanning device unless:

(1) the facility receives written permission from the person's physician allowing the person to use the device; and

(2) the person's parent or legal guardian remains at the tanning facility while the person uses the device.

(g) Before any person 16 or 17 [~~who is younger than 18~~] years of age uses a tanning facility device for the first time, the person must give the operator a written informed consent statement signed and dated by the person's parent or legal guardian stating that the parent or legal guardian has read and understood the warnings given by the tanning facility, consents to the minor's use of a tanning device, and agrees that the minor will use protective eyewear. In addition, a person 13, 14, or 15 [~~younger than 14~~] years of age must be accompanied by a parent or legal guardian who must remain at the tanning facility while the person uses the [~~younger than 14 years of age is using a~~] tanning device.

(h) [~~(g)~~] When a tanning device is in use by a person, another person may not be allowed in the area of the tanning device.

(i) [~~(h)~~] A record of each customer using a tanning device shall be maintained at the tanning facility at least until the third anniversary of the date of the customer's last use of a tanning device. The board by rule shall prescribe the form and content of the records. The record shall include:

- (1) the date and time of the customer's use of a tanning device;
- (2) the length of time the tanning device was used;
- (3) any injury or illness resulting from the use of a tanning device;

[and]

(4) any written informed consent statement required to be signed under Subsection (e);

(5) the customer's skin type, as determined by the customer by using the Fitzpatrick scale for classifying a skin type;

(6) whether the customer has a family history of skin cancer; and

(7) whether the customer has a past medical history of skin cancer [or
(f)].

(j) An operator shall keep an incident log at each tanning facility. The log shall be maintained at the tanning facility at least until the third anniversary of the date of an incident. The board by rule shall prescribe the form and content of the log. The log shall include each:

(1) alleged injury;

(2) use of a tanning device by a customer not wearing protective eyewear;

(3) mechanical problem with a tanning device; and

(4) customer complaint.

(k) The Texas Department of Health shall provide to each applicant for an original or renewal license a written copy of the Fitzpatrick scale.

SECTION 5. Chapter 145, Health and Safety Code, is amended by adding Section 145.015 to read as follows:

Sec. 145.015. TOLL-FREE NUMBER. The department shall maintain a toll-free telephone number that a customer may call to report an alleged injury regarding a tanning device or incurred at a tanning facility.

SECTION 6. Chapter 145, Health and Safety Code, is amended by adding Section 145.016 to read as follows:

Sec. 145.016. DISCLOSURE OF RECORD PROHIBITED; EXCEPTION.
(a) Except as provided by Subsection (b), an operator or other person may not disclose a customer record required by Section 145.008(i).

(b) An operator or other person may disclose a customer record:

(1) if the customer, or a person authorized to act on behalf of the customer, requests the record;

(2) if the commissioner or an authorized agent or health authority requests the record under Section 145.011;

(3) if the customer consents in writing to the disclosure to another person;

(4) in a criminal proceeding in which the customer is a victim, witness, or defendant;

(5) if the record is requested in a criminal or civil proceeding by court order or subpoena; or

(6) as otherwise required by law.

SECTION 7. (a) This Act takes effect September 1, 2001.

(b) Not later than January 1, 2002, the Texas Department of Health shall adopt the rules required by Section 145.008, Health and Safety Code, as amended by this Act, and implement the toll-free telephone number required by Section 145.015, Health and Safety Code, as added by this Act.

**HB 695 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative A. Reyna called up with senate amendments for consideration at this time,

HB 695, A bill to be entitled An Act relating to the regulation of certain occupations by the Texas Real Estate Commission; providing penalties.

Representative A. Reyna moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 695**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 695**: A. Reyna, chair, Haggerty, Yarbrough, J. Moreno, and Goolsby.

HB 741 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 741, A bill to be entitled An Act relating to the creation of the Aldine Community Improvement District; providing authority to impose a tax and issue bonds.

On motion of Representative Bailey, the house concurred in the senate amendments to **HB 741** by (Record 466): 145 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Marchant; Sadler; Tillery.

Senate Committee Substitute

CSHB 741, A bill to be entitled An Act relating to the creation of the Aldine Community Improvement District; providing authority to impose a tax and issue bonds.

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

SECTION 1. Chapter 376, Local Government Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ALDINE COMMUNITY IMPROVEMENT DISTRICT

Sec. 376.451. CREATION OF DISTRICT. (a) The Aldine Community Improvement District is created as a special district under Section 59, Article XVI, Texas Constitution.

(b) The board by resolution may change the district's name.

Sec. 376.452. DECLARATION OF INTENT. (a) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, arts, entertainment, economic development, safety, and the public welfare in the Aldine Community area of Harris County.

(b) The creation of the district and this legislation are not to be interpreted to relieve the county from providing the level of services, as of the effective date of this subchapter, to the area in the district or to release the county from the obligations the entity has to provide services to that area. The district is created to supplement and not supplant the county services provided in the area in the district.

(c) The creation of the district is essential to accomplish the purposes of Section 52, Article III, Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and other public purposes stated in this subchapter.

Sec. 376.453. DEFINITIONS. In this subchapter:

(1) "Board" means the board of directors of the district.

(2) "County" means Harris County, Texas.

(3) "District" means the Aldine Community Improvement District.

(4) "Municipality" means the City of Houston, Texas.

Sec. 376.454. BOUNDARIES. The district includes all the territory contained in the following described area:

Being 14.79 square miles, more or less,

Beginning at the northeast corner of Aldine Mail Road and the Hardy Toll Road

Thence north along the east right-of-way line of Hardy Toll Road a distance of approximately two (2) miles to the north right-of-way line of State Highway 525

Thence along the north right-of-way line of State Highway 525 approximately 2.75 miles to the west right-of-way line of John F. Kennedy Boulevard

Thence south along the west right-of-way line of John F. Kennedy Boulevard a distance of approximately one (1) mile to the City of Houston City limits

Thence east a distance of approximately one-quarter mile (1/4) mile to the east right-of-way line of Heathrow Forest Parkway

Thence north along the east right-of-way line of Heathrow Forest Parkway a distance of approximately one-quarter mile (1/4) mile to the City of Houston City limits

Thence east along the south side of the City of Houston City limits a distance of approximately one-half (1/2) mile

Thence south a distance of approximately one-quarter mile (1/4) mile

Thence east a distance of approximately one-eighth (1/8) mile to the east right-of-way line of Sequoia Bend Boulevard

Thence north along the east right-of-way line of Sequoia Bend Boulevard a distance of approximately one-half (1/2) mile to the north right-of-way line of State Highway 525

Thence east along the north right-of-way line of State Highway 525 a distance of approximately three-quarters (3/4) of one mile to the east right-of-way line of Lee Road

Thence south along the east right-of-way line of Lee Road becoming Homestead Road a distance of approximately two and one-half miles to the north right-of-way line of Mount Houston Road

Thence west along the north right-of-way line of Mount Houston Road a distance of approximately one-quarter mile to the west line of the Southern Pacific Railroad property

Thence southwest along the Southern Pacific Railroad property a distance of approximately one and three-quarters mile to the north right-of-way line of Langley Road

Thence west along the north right-of-way line of Langley Road a distance of approximately one mile to the east right-of-way line of U.S. Highway 59

Thence northeast along the east right-of-way line of U.S. Highway 59 a distance of approximately one-quarter mile to the north right-of-way line of Little York Road

Thence west along the north right-of-way line of Little York Road a distance of approximately one-quarter mile to the east right-of-way line of Bentley Road

Thence north along the east right-of-way line of Bentley Road a distance of approximately one-quarter mile to the north right-of-way line of Sagebrush Road

Thence west along the north right-of-way line of Sagebrush Road a distance of approximately one-third (1/3) mile to the west line of Halls Bayou

Thence south along the west line of Halls Bayou a distance of approximately one-quarter mile to the north right-of-way line of Little York Road

Thence west along the north right-of-way line of Little York Road a distance of approximately one-half mile to the City of Houston City limits line adjacent to and east of Aldine Westfield Road

Thence north along the City of Houston City limits line adjacent to and east of Aldine Westfield Road a distance of approximately one-eighth mile along the east line of the City of Houston City limits line

Thence west along the north line of the City of Houston City limits line a distance of approximately three-quarter mile to the east right-of-way line of Hardy Toll Road

Thence north along the east right-of-way line of Hardy Toll Road a distance of approximately two miles to the north right-of-way line of Aldine Mail Road and the Point of Beginning

Save and Except the Following Parcels:

Parcel Number One: City of Houston Keith-Weiss Park

Parcel Number Two: That portion of City of Houston Melrose Park east of the right-of-way line of Hardy Toll Road

SAVE AND EXCEPT all tracts or parcels of land, rights-of-way, facilities, and improvements owned by an electric utility or a power generation company as defined by Section 31.002, Utilities Code, a telecommunications provider as defined by Section 51.002, Utilities Code, or a gas utility as defined by Sections 101.003 and 121.001, Utilities Code.

Sec. 376.455. FINDINGS RELATING TO BOUNDARIES. The boundaries and field notes of the district form a closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, the mistake does not in any way affect the district's:

- (1) organization, existence, or validity;
- (2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;
- (3) right to impose or collect an assessment or tax; or
- (4) legality or operation.

Sec. 376.456. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit. All the land and other property included in the district will be benefitted by the improvements and services to be provided by the district under powers conferred by Section 52, Article III, Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and other powers granted under this subchapter.

(b) The creation of the district is in the public interest and is essential to:
(1) further the public purposes of the development and diversification of the economy of the state; and

(2) eliminate unemployment and underemployment and develop or expand transportation and commerce.

(c) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, consumers in the district, and the general public;

(2) provide needed funding for the Aldine Community area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center; and

(3) further promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(d) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(e) The district will not act as the agent or instrumentality of any private interest even though many private interests will be benefitted by the district, as will the general public.

Sec. 376.457. APPLICATION OF OTHER LAW. Except as otherwise provided by this subchapter, Chapter 375 applies to the district.

Sec. 376.458. CONSTRUCTION OF SUBCHAPTER. This subchapter shall be liberally construed in conformity with the findings and purposes stated in this subchapter.

Sec. 376.459. BOARD OF DIRECTORS IN GENERAL. (a) The district is governed by a board of nine directors who serve staggered terms of four years with four or five members' terms expiring June 1 of each odd-numbered year.

(b) One director must be a resident of the district.

(c) The board by resolution may change the number of directors on the board if the board finds that the change is in the best interest of the district, subject to Section 375.061.

Sec. 376.460. APPOINTMENT AND REMOVAL OF DIRECTORS. Board members are appointed and may be removed as provided by Sections 375.064 and 375.065, except that for purposes of this subchapter references in those sections to the governing body of the municipality mean the commissioners court of the county.

Sec. 376.461. QUORUM. (a) Section 375.071 does not apply to the district.

(b) One-half of the board constitutes a quorum.

(c) Except as provided in Section 376.462, a concurrence of a majority of a quorum is required for any official district action.

Sec. 376.462. VOTE REQUIRED FOR AUTHORIZATION OF ASSESSMENTS, BONDS, IMPACT FEES, AND TAXES. (a) A majority vote of the directors serving is required to authorize the imposition of an assessment, impact fee, or tax.

(b) The written consent of at least two-thirds of the full membership of the board is required to authorize the issuance of bonds.

Sec. 376.463. EXERCISE OF POWERS OF DEVELOPMENT CORPORATION. The district may exercise the powers of a corporation created under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

Sec. 376.464. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. To protect the public interest, the district may contract with the municipality or the county for the municipality or county to provide law enforcement services in the district for a fee.

Sec. 376.465. CONTRACT WITH POLITICAL SUBDIVISION. The municipality, county, or another political subdivision of the state, without further authorization, may contract with the district to implement a project of the district or assist the district in providing the services authorized under this subchapter. A contract under this subsection may:

(1) be for a period on which the parties agree;

(2) include terms on which the parties agree;

(3) be payable from taxes or any other sources of revenue that may be available for such purpose; or

(4) provide that taxes or other revenue collected at a district project or from a person using or purchasing a commodity or service at a district project may be paid or rebated to the district under the terms of the contract.

Sec. 376.466. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act on behalf of the district in implementing a project or providing a service authorized by this subchapter.

(b) The board shall appoint the board of directors of a nonprofit corporation created under this section. The board of directors of the nonprofit corporation shall serve in the same manner, term, and conditions as a board of directors of a local government corporation created under Chapter 431, Transportation Code.

(c) A nonprofit corporation created under this section has the powers of and is considered for purposes of this subchapter to be a local government corporation created under Chapter 431, Transportation Code.

(d) A nonprofit corporation created under this section may implement any project and provide any service this subchapter authorizes.

Sec. 376.467. DISBURSEMENTS OR TRANSFERS OF FUNDS. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 376.468. MUNICIPAL APPROVAL. (a) Except as provided by Subsection (b), the district must obtain approval from the municipality's governing body of:

(1) the issuance of bonds for an improvement project; and

(2) the plans and specifications of an improvement project financed by the bonds.

(b) If the district obtains approval from the municipality's governing body of a capital improvements budget for a period not to exceed five years, the district may finance the capital improvements and issue bonds specified in the budget without further approval from the municipality.

(c) The district must obtain approval from the municipality's governing body of the plans and specifications of any district improvement project related to the use of land owned by the county, an easement granted by the county, or a right-of-way of a street, road, or highway.

(d) Except as provided by Section 375.263, a municipality is not obligated to pay any bonds, notes, or other obligations of the district.

Sec. 376.469. ASSESSMENTS. (a) The board may impose and collect an assessment for any purpose authorized by this subchapter.

(b) Assessments, reassessments, or assessments resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, expenses of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the resolution of the board levying the assessment until the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

Sec. 376.470. SALES AND USE TAX. (a) The district may impose a sales and use tax if authorized by a majority of the qualified voters of the district voting at an election called for that purpose. Revenue from the tax may be used for any purpose for which ad valorem tax revenue of the district may be used.

(b) The district may not adopt a tax under this subchapter if as a result of the adoption of the tax the combined rate of all sales and use taxes imposed by the county and other political subdivisions of this state having territory in the county would exceed two percent at any location in the district.

(c) If the voters of the county approve the adoption of the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves the increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the district would exceed two percent at any location in the county, the election to adopt a sales and use tax under this subchapter has no effect.

Sec. 376.471. MAINTENANCE TAX. (a) If authorized at an election held in accordance with Section 376.472, the district may impose and collect an annual ad valorem tax on taxable property in the district for:

- (1) the maintenance and operation of the district;
- (2) improvements constructed or acquired by the district; or
- (3) the provision of services.

(b) The board shall determine the tax rate.

Sec. 376.472. ELECTIONS. (a) In addition to the elections the district must hold under Subchapter L, Chapter 375, the district shall hold an election in the manner provided by that subchapter to obtain voter approval before the district imposes a maintenance tax or issues bonds payable from ad valorem taxes or assessments.

(b) The board may include more than one purpose in a single proposition at an election.

Sec. 376.473. PROPERTY EXEMPTED FROM TAX, FEE, OR ASSESSMENT. (a) The district may not impose an impact fee or assessment under Chapter 375 on a residential property, multiunit residential property, or condominium.

(b) The district may not impose an assessment or impact fee on the property of an electric utility, gas utility, power generation company, or telecommunications provider. In this subsection, "electric utility" and "power generation company" have the meanings assigned by Section 31.002, Utilities Code, "gas utility" has the meaning assigned by Sections 101.003 and 121.001, Utilities Code, and "telecommunications provider" has the meaning assigned by Section 51.002(10), Utilities Code.

Sec. 376.474. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 376.475. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBTS. (a) The board may vote to dissolve a district that has debt. If the vote is in favor of dissolution, the district shall remain in existence solely for the limited purpose of discharging its debts. The dissolution is effective when all debts have been discharged.

(b) Section 375.264 does not apply to the district.

Sec. 376.476. ANNEXATION OF CERTAIN TERRITORY BY GOVERNING BODY OF MUNICIPALITY. (a) If territory in the municipality's limit or extraterritorial jurisdiction is included in the district, the municipality's governing body may remove that territory from the district if the district does not have bonded indebtedness.

(b) To remove territory under Subsection (a), the governing body of the municipality must notify the secretary of the board of the district in writing that the territory is excluded from the district's territory.

(c) If a municipality annexes territory that is in its extraterritorial jurisdiction and included in the district, the governing body of the municipality shall notify the secretary of the board of the district in writing that the annexed territory is excluded from the district's territory.

SECTION 2. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission;

(2) the Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 3. (a) Section 375.062, Local Government Code, and Section 376.460, Local Government Code, as added by this Act, do not apply to the initial board of directors of the Aldine Community Improvement District.

(b) The initial board of directors consists of the following persons:

Pos. No.	Name of Director
1	Clyde Baily
2	Sylvia Bolling
3	Reyes Garcia
4	Leland Jauer
5	V. E. (Vic) Mauldin
6	W. Steve Mead
7	Art Murillo
8	Ray Shotwell
9	Maria Espinoza

(c) Of the initial directors, the directors appointed for positions 1 through 4 serve until June 1, 2003, and the directors appointed for positions 5 through 9 serve until June 1, 2005.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 815 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 815, A bill to be entitled An Act relating to the presentation of the state flag and a certificate of gratitude to survivors of deceased peace officers and firefighters.

On motion of Representative Bailey, the house concurred in the senate amendments to **HB 815**.

Senate Committee Substitute

CSHB 815, A bill to be entitled An Act relating to providing the state flag and a certificate of gratitude to the survivors of deceased peace officers.

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

SECTION 5. Subchapter E, Chapter 615, Government Code, is amended by adding Section 615.105 to read as follows:

Sec. 615.105. PROVISION OF STATE FLAG. (a) This section applies only to:

(1) an individual elected, appointed, or employed as a peace officer by the state or a political subdivision of the state under Article 2.12, Code of Criminal Procedure, or other law; or

(2) an individual who formerly held a position described by Subdivision (1).

(b) On the death of an individual listed in Subsection (a), regardless of whether the individual died in the course of duty as a peace officer, the individual's next of kin may receive on request a state flag from the Commission on Law Enforcement Officer Standards and Education.

(c) If the office of the governor is notified of the death of an individual listed in Subsection (a) by the Commission on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code, the office of the governor shall send to the individual's next of kin a certificate that expresses condolences and gratitude on behalf of the governor and the people of Texas for the individual's service as a Texas peace officer.

SECTION 2. Subchapter B, Chapter 497, Government Code, is amended by adding Section 497.031 to read as follows:

Sec. 497.031. SALE OF STATE FLAGS TO STATE AGENCY. The department shall sell state flags to the Commission on Law Enforcement Officer Standards and Education at a price that does not exceed the department's cost in producing or obtaining the state flags.

SECTION 3. Section 191.025, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) The department shall require that the form for the registration of deaths must include the question, "Was the decedent ever a peace officer in this state?"

SECTION 4. Subchapter I, Chapter 651, Occupations Code, is amended by adding Section 651.408 to read as follows:

Sec. 651.408. NOTICE TO NEXT OF KIN OF DECEASED PEACE OFFICER. A funeral director who prepares a deceased peace officer for burial or other disposition shall make every effort to advise the next of kin of the officer that the next of kin of a person who was a peace officer or a former peace officer at the time of death is eligible on request to receive a state flag from the Commission on Law Enforcement Officer Standards and Education at no cost to the next of kin.

SECTION 5. Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.160 to read as follows:

Sec. 1701.160. PROVISION OF STATE FLAG TO NEXT OF KIN OF DECEASED PEACE OFFICER. (a) If the next of kin of a deceased peace officer requests a state flag, the commission shall:

(1) provide a state flag, at no cost to the next of kin, if the peace officer was a current or former peace officer at the time of the officer's death; and

(2) notify the office of the governor of the death of the peace officer.

(b) The commission may apply for and accept gifts and grants from public and private entities on behalf of the Texas peace officer flag account.

(c) The commission shall deposit any gift or grant accepted by the commission under Subsection (b) to the credit of the Texas peace officer flag account. The Texas peace officer flag account is a special account in the general revenue fund. Money in the account may be appropriated only to the commission for the purpose of implementing this section. Interest earned on money in the Texas peace officer flag account shall be credited to the account.

SECTION 6. The Texas Department of Health is not required to implement Section 191.025(f), Health and Safety Code, as added by this Act, until the next time at which the department is otherwise requiring a revision to the form for the registration of deaths.

SECTION 7. This Act takes effect September 1, 2001. Section 615.105, Government Code, as added by this Act, applies only to a current or former peace officer who dies on or after September 1, 2001. Section 651.408, Occupations Code, as added by this Act, applies only to a funeral director who prepares a deceased person for burial or other disposition on or after September 1, 2001.

**HB 915 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 915, A bill to be entitled An Act relating to bulk purchasing of prescription drugs by certain state agencies.

Representative Gray moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 915**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 915**: Gray, chair, F. Brown, Eiland, Maxey, and Junell.

**HB 1166 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1166, A bill to be entitled An Act relating to regulation of the business of selling checks, including electronic checks.

Representative Denny moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1166**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1166**: Denny, chair, Averitt, Menendez, Solomons, and Hopson.

HB 2494 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2494, A bill to be entitled An Act relating to the ratification of the Interstate Compact for Adult Offender Supervision.

(Hochberg now present)

On motion of Representative Haggerty, the house concurred in the senate amendments to **HB 2494** by (Record 467): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Marchant; Sadler; Tillery.

Absent — Corte; Hartnett; Merritt; Raymond; Wise.

STATEMENT OF VOTE

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

Corte

Senate Committee Substitute

CSHB 2494, A bill to be entitled An Act relating to the ratification of the Interstate Compact for Adult Offender Supervision.

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

SECTION 1. Subtitle G, Title 4, Government Code, is amended by adding Chapter 510 to read as follows:

CHAPTER 510. INTERSTATE COMPACT FOR
ADULT OFFENDER SUPERVISION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 510.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Interstate Commission for Adult Offender Supervision.

(2) "Compact" means the Interstate Compact for Adult Offender Supervision.

(3) "State council" means the Texas State Council for Interstate Adult Offender Supervision.

Sec. 510.002. APPLICABILITY OF CHAPTER 2110. Chapter 2110 applies to the state council, except for Sections 2110.002, 2110.003, and 2110.008.

Sec. 510.003. ADMINISTRATION. The state council, the compact administrator, and the state's commissioner to the commission are administratively attached to the department.

[Sections 510.004-510.010 reserved for expansion]

SUBCHAPTER B. TEXAS STATE COUNCIL FOR INTERSTATE
ADULT OFFENDER SUPERVISION

Sec. 510.011. ESTABLISHMENT. The Texas State Council for Interstate Adult Offender Supervision is established.

Sec. 510.012. COMPOSITION; TERMS. (a) The state council is composed of:

(1) the executive director or the executive director's designee;

(2) three members appointed by the governor, one of whom must be a representative of an organization representing the rights of victims of crime;

(3) one member appointed by the presiding judge of the court of criminal appeals;

(4) one member appointed by the lieutenant governor; and

(5) one member appointed by the speaker of the house of representatives.

(b) Appointed members of the state council serve staggered terms of six years, with the terms of two members expiring February 1 of each odd-numbered year.

Sec. 510.013. DUTIES OF EXECUTIVE DIRECTOR, EXECUTIVE DIRECTOR'S DESIGNEE. (a) The governor shall designate one member of the state council as the presiding officer of the state council, and the presiding officer serves in that capacity at the pleasure of the governor.

(b) The governor shall appoint the state's compact administrator and the state's commissioner to the commission, and may appoint one person as administrator and one person as commissioner or one person to be both administrator and commissioner. The person or persons, as appropriate, serve at the pleasure of the governor.

Sec. 510.014. DUTIES OF COUNCIL. The council shall advise the

compact administrator and the state's commissioner to the commission on the state's participation in commission activities and the administration of the compact.

Sec. 510.015. LIABILITIES FOR CERTAIN COMMISSION AGENTS. The compact administrator, the state's commissioner to the commission, and each member, officer, executive director, employee, or agent of the commission acting within the scope of the person's employment or duties is, for the purposes of acts and omissions occurring within this state, entitled to the same protections under Chapter 104, Civil Practice and Remedies Code, as an employee, a member of the governing board, or any other officer of a state agency, institution, or department.

Sec. 510.016. EFFECT ON TEXAS LAWS. In the event the laws of this state conflict with the compact, the compact controls, except that in the event of a conflict between the compact and the Texas Constitution, as determined by the courts of this state, the Texas Constitution controls.

Sec. 510.017. COMPACT TO BE ENTERED; TEXT. The Interstate Compact for Adult Offender Supervision is hereby entered into and enacted into law as follows:

ARTICLE I. PURPOSE

(a) The compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner and, when necessary, return offenders to the originating jurisdictions. The compacting states also recognize that the United States Congress, by enacting 4 U.S.C. 112, has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

(b) It is the purpose of this compact and the Interstate Commission created under this compact, through means of joint and cooperative action among the compacting states: To provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states.

(c) In addition, this compact is intended to: Create an Interstate Commission that will establish uniform procedures to manage the movement between states of offenders placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities or corrections or other criminal justice agencies that will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials and regular reporting of compact activities to the heads of State Councils, the state executive, judicial and legislative branches and the criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and

correct noncompliance; and coordinate training and education on the regulation of interstate movement of offenders for officials involved in such activity.

(d) The compacting states recognize that there is no right of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision, subject to the provisions of this compact and the bylaws and rules promulgated under this compact. It is the policy of the compacting states that the activities conducted by the Interstate Commission are intended to formulate public policy and are therefore public business.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

(a) "Adult" means a person who is 18 years of age or older or a person under 18 years of age who is legally classified, either by statute or court order, as an adult.

(b) "Bylaws" means those bylaws established by the Interstate Commission for its governance or for directing or controlling the Interstate Commission's actions or conduct.

(c) "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

(d) "Compacting state" means any state which has enacted the enabling legislation for this compact.

(e) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

(f) "Interstate Commission" means the Interstate Commission for Adult Offender Supervision created by Article III of this compact.

(g) "Member" means the commissioner of a compacting state or the commissioner's designee, who shall be an individual officially connected with the commissioner.

(h) "Noncompacting state" means any state that has not enacted the enabling legislation for this compact.

(i) "Offender" means an adult placed under or subject to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities or corrections or other criminal justice agencies.

(j) "Person" means any individual, corporation, business enterprise or other legal entity, either public or private.

(k) "Rules" means acts of the Interstate Commission, duly promulgated pursuant to Article VII of this compact and substantially affecting interested parties in addition to the Interstate Commission, that have the force and effect of law in the compacting states.

(l) "State" means a state of the United States, the District of Columbia or any territorial possession of the United States.

(m) "State Council" means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under this compact.

ARTICLE III. THE INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

(a) The compacting states hereby create the Interstate Commission for Adult Offender Supervision. The Interstate Commission shall be a body corporate and joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers and duties set forth in this compact, including the power to sue and be sued and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(b) The Interstate Commission shall consist of commissioners selected and appointed by each state. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All noncommissioner members of the Interstate Commission shall be nonvoting members. The Interstate Commission may provide in its bylaws for such additional nonvoting members as it deems necessary.

(c) Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(d) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public, except as provided in Article VII of this compact.

(e) The Interstate Commission shall establish an executive committee that shall include commission officers, members and others as shall be determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and Interstate Commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws and rules and as directed by the Interstate Commission and performs other duties as directed by the Interstate Commission or as set forth in the bylaws and rules.

ARTICLE IV. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

(a) To adopt a seal and suitable bylaws governing the management and operation of the Interstate Commission.

(b) To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

(c) To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.

(d) To enforce compliance with the compact and the rules and bylaws of the Interstate Commission, using all necessary and proper means, including, but not limited to, the use of judicial process.

(e) To establish and maintain offices.

(f) To purchase and maintain insurance and bonds.

(g) To borrow, accept or contract for the services of personnel, including, but not limited to, members and their staffs.

(h) To establish and appoint committees and hire staff that it deems necessary to carry out its functions, including, but not limited to, an executive committee as required by Article III of this compact, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties under this compact.

(i) To elect or appoint officers, attorneys, employees, agents or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel.

(j) To accept any and all donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of same.

(k) To lease, purchase, accept contributions or donations of any property, or otherwise to own, hold, improve or use any property, whether real, personal or mixed.

(l) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed.

(m) To establish a budget and make expenditures and levy dues as provided in Article IX of this compact.

(n) To sue and be sued.

(o) To provide for dispute resolution among compacting states.

(p) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(q) To report annually to the legislatures, governors, judiciary and State Councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(r) To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity.

(s) To establish uniform standards for the reporting, collecting and exchanging of data.

ARTICLE V. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall, by a majority of the members, within 12 months of the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(1) Establishing the fiscal year of the Interstate Commission.

(2) Establishing an Executive Committee and such other committees as may be necessary.

(3) Providing reasonable standards and procedures:

(i) For the establishment of committees; and

(ii) Governing any general or specific delegation of any authority or function of the Interstate Commission.

(4) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each meeting.

(5) Establishing the titles and responsibilities of the officers of the Interstate Commission.

(6) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service laws or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the Interstate Commission.

(7) Providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of the Interstate Commission's debts and obligations.

(8) Providing transition rules for start-up administration of the compact.

(9) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(b)(1) The Interstate Commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission, provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

(2) The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission and shall hire and supervise other staff as may be authorized by the Interstate Commission, but shall not be a member of the Interstate Commission.

(c) The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

(d)(1) The Interstate Commission shall defend the commissioner of a compacting state, the commissioner's representatives or employees or the Interstate Commission's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

(2) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, the appointed representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such persons.

ARTICLE VI. ACTIVITIES OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall meet and take such actions as are consistent with the provisions of this compact.

(b) Except as otherwise provided in this compact and unless a greater percentage is required under the bylaws, in order to constitute an act of the Interstate Commission, such act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.

(c) Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person on behalf of the compacting state and shall not delegate a vote to another compacting state. However, a member may designate another individual, in the absence of the member, to cast a vote on behalf of the member at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

(d) The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(e) The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent the information or records would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(f) Public notice shall be given of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission shall promulgate rules consistent with the principles contained in the Government in the Sunshine Act, 5 U.S.C. 552, as amended. The Interstate Commission and any of its committees may close a meeting to the public when the Interstate Commission determines by two-thirds vote that an open meeting would be likely to:

(1) Relate solely to the Interstate Commission's internal personnel practices and procedures;

(2) Disclose matters specifically exempted from disclosure by statute;

(3) Disclose trade secrets or commercial or financial information that is privileged or confidential;

(4) Involve accusing any person of a crime or formally censuring any person;

(5) Disclose information of a personal nature when such disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) Disclose investigatory records compiled for law enforcement purposes;

(7) Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

(8) Disclose information when such premature disclosure would significantly endanger the life of a person or the stability of a regulated entity; or

(9) Specifically relate to the Interstate Commission's issuance of a subpoena or its participation in a civil action or proceeding.

(g) For every meeting closed pursuant to Subsection (f) of this Article, the Interstate Commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public and shall make reference to each relevant provision authorizing closure of the meeting. The Interstate Commission shall keep minutes that fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any action taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(h) The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules that specify the data to be collected, the means of collection and data exchange and reporting requirements.

ARTICLE VII. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact, including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

(b) Rulemaking shall occur pursuant to the criteria set forth in this Article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C. 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, section 1 et seq., as amended. All rules and amendments shall become binding as of the date specified in each rule or amendment.

(c) If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the

compact, then such rule shall have no further force and effect in any compacting state.

(d) When promulgating a rule, the Interstate Commission shall:

(1) Publish the proposed rule, stating with particularity the text of the rule that is proposed and the reason for the proposed rule;

(2) Allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;

(3) Provide an opportunity for an informal hearing; and

(4) Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record. Not later than 60 days after a rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the federal district court where the Interstate Commission's principal office is located for judicial review of the rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the federal Administrative Procedure Act, 5 U.S.C. 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, section 1 et seq., as amended.

(e) Rules related to the following subjects must be addressed within 12 months after the first meeting of the Interstate Commission:

(1) Notice to victims and opportunity to be heard;

(2) Offender registration and compliance;

(3) Violations and returns;

(4) Transfer procedures and forms;

(5) Eligibility for transfer;

(6) Collection of restitution and fees from offenders;

(7) Data collection and reporting;

(8) The level of supervision to be provided by the receiving state;

(9) Transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and

(10) Mediation, arbitration and dispute resolution.

(f) The existing rules governing the operation of the previous compact superseded by this compact shall be null and void 12 months after the first meeting of the Interstate Commission created under this compact.

(g) Upon determination by the Interstate Commission that an emergency exists, the Interstate Commission may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in this Article shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the rule.

ARTICLE VIII. OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

(a)(1) The Interstate Commission shall oversee the Interstate movement of

adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states that may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes.

(b)(1) The compacting states shall report to the Interstate Commission on issues or activities of concern to them and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

(2) The Interstate Commission shall attempt to resolve any disputes or other issues that are subject to the compact and that may arise among compacting states and noncompacting states. The Interstate Commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Article XI (b) of this compact.

ARTICLE IX. FINANCE

(a) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(b) The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state. The Interstate Commission shall promulgate a rule binding upon all compacting states that governs said assessment.

(c) The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same, nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(d) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE X. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

(a) Any state, as defined in Article II of this compact, is eligible to become a compacting state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no fewer than 35 of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. Thereafter, the compact shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of noncompacting states or their designees may be invited to participate in Interstate Commission activities on a non-voting basis prior to adoption of the compact by all states.

(c) Amendments to the compact may be proposed by the Interstate Commission for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI. WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

(a)(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal of the statute that enacted the compact into law.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

(b)(1) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact or the bylaws or rules of the Interstate Commission, the Interstate Commission may impose any or all of the following penalties:

(i) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;

(ii) Remedial training and technical assistance as directed by the Interstate Commission;

(iii) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice or chief judicial officer of the defaulting state; the majority and minority leaders of the defaulting state's legislature, and the state council.

(2) The grounds for default include, but are not limited to, failure of a compacting state to perform obligations or responsibilities imposed upon it by this compact or the Interstate Commission bylaws or rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission on the defaulting state pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of suspension. Within 60 days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the governor, the chief justice or chief judicial officer of the defaulting state, the majority and minority leaders of the defaulting state's legislature and the State Council of such termination.

(3) The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including any obligations, the performance of which extend beyond the effective date of termination.

(4) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

(c) The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district court where the Interstate Commission has its principal office to enforce compliance with the provisions of the compact, its rules or bylaws against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(d)(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XII. SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

(a)(1) Nothing in this compact prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

SECTION 2. Article 42.11, Code of Criminal Procedure, is repealed effective on the first anniversary of the date on which the Interstate Compact for Adult Offender Supervision, by its own terms, becomes effective.

SECTION 3. In appointing the initial members of the Texas State Council for Interstate Adult Offender Supervision:

(1) the governor shall appoint one person to serve a term expiring February 1, 2003, one member to serve a term expiring February 1, 2005, and one member to serve a term expiring February 1, 2007;

(2) the presiding judge of the court of criminal appeals shall appoint one person to serve a term expiring February 1, 2007;

(3) the lieutenant governor shall appoint one person to serve a term expiring September 1, 2005; and

(4) the speaker of the house of representatives shall appoint one person to serve a term expiring February 1, 2003.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 2589 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 2589, A bill to be entitled An Act relating to the required posting of information on a state agency's Internet site and to the confidentiality of certain information.

Representative Hochberg moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2589**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2589**: Hochberg, chair, McCall, S. Turner, Merritt, and Bailey.

**HB 2628 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2628, A bill to be entitled An Act relating to the powers and rights of a cultural educational facilities finance corporation.

On motion of Representative Wolens, the house concurred in the senate amendments to **HB 2628** by (Record 468): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Marchant; Sadler; Tillery.

Absent — Capelo; Giddings; Wise.

Senate Committee Substitute

CSHB 2628, A bill to be entitled An Act relating to the powers and rights of a cultural educational facilities finance corporation.

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

SECTION 1. Section 4, Cultural Education Facilities Finance Corporation Act (Article 1528m, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. CREATION OF CORPORATIONS; POWERS; ISSUANCE OF BONDS. (a) A city or county may create a nonmember, nonstock, public, cultural educational facilities finance corporation for the sole purpose of acquiring, constructing, providing, improving, financing, and refinancing cultural facilities for the public purposes stated in this Act.

(b) The corporation shall be created and organized in the same manner and has the same powers, authority, and rights;

(1) with respect to cultural facilities and health facilities that [as] a health facilities development corporation has with respect to health facilities under Chapter 221, Health and Safety Code; and

(2) with respect to educational facilities, housing facilities, and other facilities incidental, subordinate, or related to those facilities that a nonprofit corporation created under Section 53.35(b), Education Code, or an authority created under Section 53.11, Education Code, has under Chapter 53, Education Code.

(c) The powers of a corporation under Subsection (b) include~~[, including]~~ the power to acquire, purchase, lease, mortgage, and convey property with respect to a ~~[cultural]~~ facility; borrow money by issuing bonds, notes, and other obligations; lend money for its corporate purposes; invest and reinvest its funds; and secure its bonds, notes, and obligations by mortgaging, pledging, assigning, or otherwise encumbering its property or assets.

(d) Regardless of any provision in Chapter 221, Health and Safety Code, or Chapter 53, Education Code, the authority of the corporation may be exercised inside or outside the limits of the city that created the corporation if the city is located in a county with a population of more than 400,000 or inside or outside the limits of the county that created the corporation if the county has a population of more than 400,000. The authority may be exercised without the consent or other action of any person that would otherwise be required under Chapter 221, Health and Safety Code, or Chapter 53, Education Code, unless the articles of incorporation or bylaws of the corporation provide differently. The authority of a corporation under this section shall not preempt the police powers of any sponsoring entity or any other laws regulating or empowering sponsoring entities to regulate the activities of the corporation.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 2690 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2690, A bill to be entitled An Act relating to enforcement measures available to groundwater conservation districts.

On motion of Representative Walker, the house concurred in the senate amendments to **HB 2690** by (Record 469): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Glaze; Goodman; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill;

Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Marchant; Sadler; Tillery.

Absent — Crownover; Giddings; Goolsby.

Senate Committee Substitute

CSHB 2690, A bill to be entitled An Act relating to enforcement measures available to groundwater conservation districts.

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

SECTION 1. Section 36.066(g), Water Code, is amended to read as follows:

(g) If the district prevails in any suit other than a suit in which it voluntarily intervenes, it may, in the same action, recover reasonable attorney's fees ~~[for attorneys]~~, costs for expert witnesses, and other costs incurred by the district before the court. The amount of the attorney's fees shall be fixed by the court.

SECTION 2. Subsections (b) and (d), Section 36.102, Water Code, are amended to read as follows:

(b) The board by rule may set reasonable civil penalties for breach of any rule of the district ~~[that shall]~~ not to exceed \$10,000 per day per violation, and each day of a continuing violation constitutes a separate violation ~~[the jurisdiction of a justice court as provided by Section 27.031, Government Code]~~.

(d) If the district prevails in any suit to enforce its rules, the district may seek and the court shall grant ~~[it may]~~, in the same action, recovery ~~[recover reasonable fees]~~ for attorney's fees ~~[attorneys]~~, costs for expert witnesses, and other costs incurred by the district before the court. The amount of the attorney's fees shall be fixed by the court.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 2828 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2828, A bill to be entitled An Act relating to the delegation of certain functions by a health maintenance organization; providing penalties.

On motion of Representative Smithee, the house concurred in the senate amendments to **HB 2828**.

Senate Committee Substitute

CSHB 2828, A bill to be entitled An Act relating to the delegation of certain functions by a health maintenance organization; providing penalties.

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

SECTION 1. Section 2, Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code), is amended by amending Subsection (ee) and adding Subsections (ff), (gg), and (hh) to read as follows:

(ee) "Delegated entity [~~network~~]" means an entity, other than a health maintenance organization authorized to do business under this Act [~~or an insurer authorized to do business under Chapter 3, Insurance Code~~], ~~that~~ which: (i) by itself, or through subcontracts with one or more entities, undertakes to arrange for or to provide medical care or health care to an enrollee in exchange for a predetermined payment on a prospective basis [;] and that accepts responsibility to perform [(ii) performs] on behalf of the health maintenance organization [;] any function regulated by this Act. The term does not include an individual physician or a group of employed physicians practicing medicine under one federal tax identification number and whose total claims paid to providers not employed by the group is less than 20 percent of the total collected revenue of the group calculated on a calendar year basis.

(ff) "Delegated network" means any delegated entity that assumes total financial risk for more than one of the following categories of health care services: medical care, hospital or other institutional services, or prescription drugs, as defined by Section 551.003, Occupations Code. The term does not include a delegated entity that shares risk for a category of services with a health maintenance organization.

(gg) "Delegated third party" means a third party other than a delegated entity that contracts with a delegated entity, either directly or through another third party, to:

(1) accept responsibility to perform any function regulated by this Act;
or

(2) receive, handle, or administer funds, if the receipt, handling, or administration of the funds is directly or indirectly related to a function regulated by this Act.

(hh) "Limited provider network" means a subnetwork within a health maintenance organization delivery network in which contractual relationships exist between physicians, certain providers, independent physician associations, or physician groups that limits the physicians and providers to which the enrollees have access to physicians and providers in the subnetwork.

SECTION 2. Section 11(b), Texas Health Maintenance Organization Act (Article 20A.11, Vernon's Texas Insurance Code), is amended to read as follows:

(b) A health maintenance organization shall provide an accurate written description of health care plan terms and conditions, including an explanation

of, and a description of the restrictions or limitations related to, limited provider networks or delegated entities [~~networks~~] within a health care plan, to allow any current or prospective group contract holder and current or prospective enrollee eligible for enrollment in a health care plan to make comparisons and informed decisions before selecting among health care plans. The written description must be in a readable and understandable format as prescribed by the commissioner and shall include a telephone number a person may call to obtain more information and a current list of physicians and providers, including delineation of limited provider networks and delegated entities [~~networks~~]. The health maintenance organization may provide its handbook to satisfy this requirement provided the handbook's content is substantially similar to and achieves the same level of disclosure as the written description prescribed by the commissioner and the current list of physicians and providers is also provided. If an enrollee designates a primary care physician who practices in a limited provider network or delegated entity, not later than the 30th day after the date of the enrollee's enrollment, the health maintenance organization shall provide the information required under this subsection to the enrollee with the enrollee's identification card or in a mailing separate from other information.

SECTION 3. Sections 12(o), (p), and (q), Texas Health Maintenance Organization Act (Article 20A.12, Vernon's Texas Insurance Code), are amended to read as follows:

(o) The health maintenance organization shall maintain a record of each complaint and any complaint proceeding and any actions taken on a complaint for three years from the date of the receipt of the complaint. The record must include complaints relating to limited provider networks and delegated entities. A complainant is entitled to a copy of the record on the applicable complaint and any complaint proceeding.

(p) Each health maintenance organization shall maintain a complaint and appeal log regarding each complaint. The log must identify those complaints relating to limited provider networks and delegated entities.

(q) Each health maintenance organization shall maintain documentation on each complaint received and the action taken on each [~~the~~] complaint, including a complaint relating to a limited provider network or delegated entity, until the third anniversary of the date of receipt of the complaint. The Texas Department of Insurance may review documentation maintained under this subsection, including original documentation, during any investigation of the health maintenance organization.

SECTION 4. Section 18C, Texas Health Maintenance Organization Act (Article 20A.18C, Vernon's Texas Insurance Code), is amended to read as follows:

Art. 20A.18C. DELEGATION OF CERTAIN FUNCTIONS [~~TO DELEGATED NETWORKS~~]. (a) A health maintenance organization that delegates any function required by this Act [~~enters into a delegation agreement with a delegated network~~] shall execute a written agreement with each [~~the~~] delegated entity [~~network~~]. The health maintenance organization shall file the written agreement with the Texas Department of Insurance [~~department~~] not later than the 30th day after the date the agreement is executed. The parties to each agreement shall determine the party that will bear the expense

of compliance with any requirement of this subsection, including the cost of any examinations required by the department under Article 1.15, Insurance Code, if applicable. The written agreement must contain:

(1) a monitoring plan that allows the health maintenance organization to monitor compliance with the minimum solvency requirements established under Section 18D of this Act, if applicable, and that [which] includes:

(A) a description of financial practices that will ensure that the delegated entity [network] tracks and reports liabilities that have been incurred but not reported;

(B) a summary of the total amount paid by the delegated entity [network] to physicians and providers on a monthly basis; and

(C) a summary of complaints from physicians, enrollees, and providers regarding delays in payments of claims or nonpayment of claims, including the status of each complaint, on a monthly basis;

(2) a provision that the agreement cannot be terminated without cause by the delegated entity [network] or the health maintenance organization without written notice provided before the 90th day preceding the termination date;

(3) a provision that prohibits the delegated entity [network] and the physicians and providers with whom it has contracted from billing or attempting to collect from an enrollee under any circumstance, including the insolvency of the health maintenance organization or delegated entity [network], payments for covered services other than authorized copayments and deductibles;

(4) a provision that the delegation agreement may not be construed to limit in any way the health maintenance organization's authority or responsibility, including financial responsibility, to comply with all statutory and regulatory requirements;

(5) a provision that requires the delegated entity [network] to comply with all statutory and regulatory requirements relating to any function, duty, responsibility, or delegation assumed by or carried out by the delegated entity [network];

(6) a provision that requires the delegated entity to permit the commissioner to examine at any time any information the commissioner reasonably believes is relevant to:

(A) the financial solvency of the delegated entity; or

(B) the ability of the delegated entity to meet the entity's responsibilities in connection with any function delegated to the entity by the health maintenance organization;

(7) a provision that requires the [a] delegated entity [network or a third party] to provide the [a] license number of any delegated [and to certify that the network or] third party performing any function that requires a license [is licensed] as a third party administrator under Article 21.07-6, Insurance Code, or a license as a utilization review agent under Article 21.58A, Insurance Code, or that requires any other license under the Insurance Code or another insurance law of this state [if the health maintenance organization delegates its claims payment function to the delegated network or a third party];

(8) ~~(7)~~ a provision that requires [a delegated network or a third party to provide a license number and to certify that the network or third party is licensed as a utilization review agent under Article 21.58A, Insurance Code,

if the health maintenance organization delegates its utilization review function to the delegated network or a third party, and] that:

(A) enrollees will receive notification at the time of enrollment which entity has responsibility for performing utilization review; [and]

(B) the delegated entity [network] or third party performing utilization review shall do so in accordance with Article [Art.] 21.58A, Insurance Code; and

(C) utilization review decisions made by the delegated entity [network] or a third party shall be forwarded to the health maintenance organization on a monthly basis;

(9) a provision that requires that any agreement in which the delegated entity directly or indirectly delegates any function required by this Act, including the handling of funds, if applicable, to a delegated third party be in writing;

(10) a provision that requires the delegated entity, in contracting with a delegated third party directly or through a third party, to require the delegated third party to comply with the requirements of Subdivision (6) of this subsection and any rules adopted by the commissioner implementing that subdivision;

(11) [(8)] an acknowledgment and agreement by the delegated entity [network] that:

(A) the health maintenance organization is:

(i) required to establish, operate, and maintain a health care delivery system, quality assurance system, provider credentialing system, and other systems and programs that meet statutory and regulatory standards;

(ii) directly accountable for compliance with those standards; and

(iii) not precluded from contractually requesting that the delegated entity [network] provide proof of financial viability;

(B) the role of any [the] delegated [network and any] entity with which it subcontracts through a delegated third party [in contracting with the health maintenance organization] is limited to performing certain delegated functions of the health maintenance organization, using standards that are approved by the health maintenance organization and that [which] are in compliance with applicable statutes and rules and subject to the health maintenance organization's oversight and monitoring of the delegated entity's [network's] performance; and

(C) if the delegated entity [network] fails to meet monitoring standards established to ensure that functions delegated or assigned to the entity [network] under the delegation contract are in full compliance with all statutory and regulatory requirements, the health maintenance organization may cancel delegation of any or all delegated functions;

(12) [(9)] a provision that requires the delegated entity [network] to make available to the health maintenance organization samples of contracts with physicians and providers to ensure compliance with the contractual requirements described by Subdivisions (2) and (3) of this subsection, except that the agreement may not require that the delegated entity [network] make

available to the health maintenance organization contractual provisions relating to financial arrangements with the delegated entity's ~~[network's]~~ physicians and providers;

(13) ~~[(10)]~~ a provision that requires the delegated entity ~~[network]~~ to provide the health maintenance organization, in a usable format necessary for audit purposes and at most quarterly unless otherwise specified in the agreement, the data necessary for the health maintenance organization to comply with the department's reporting requirements with respect to any delegated functions performed under the delegation agreement, including:

(A) a summary:

(i) describing the methods, including capitation, fee-for-service, or other risk arrangements, that the delegated entity ~~[network]~~ used to pay its physicians and providers; and

(ii) including the percentage of physicians and providers paid for each payment category;

(B) the period that claims and debts for medical services owed by the delegated entity ~~[network]~~ have been pending and the aggregate dollar amount of those claims and debts;

(C) information that will enable the health maintenance organization to file claims for reinsurance, coordination of benefits, and subrogation, if required by the health maintenance organization's contract with the delegated entity ~~[network]~~; and

(D) documentation, except for information, documents, and deliberations related to peer review that are confidential or privileged under Subchapter A, Chapter 160, Occupations Code [Section 5-06, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes)], that relates to:

(i) a regulatory agency's inquiry or investigation of the delegated entity ~~[network]~~ or of an individual physician or provider with whom the delegated entity ~~[network]~~ contracts that relates to an enrollee of the health maintenance organization; and

(ii) the final resolution of a regulatory agency's inquiry or investigation; and

(14) ~~[(11)]~~ a provision relating to enrollee complaints that requires the delegated entity ~~[network]~~ to ensure that upon receipt of a complaint, as defined by this Act, the delegated entity ~~[network]~~ shall report the complaint to the health maintenance organization within two business days, except that in a [the] case in which [of] a complaint involves [involving] emergency care, as defined in this Act~~[- In the case of a complaint involving emergency care],~~ the delegated entity ~~[network]~~ shall forward the complaint immediately to the health maintenance organization, and provided that nothing in this subdivision prohibits~~[- Nothing herein shall prohibit]~~ the delegated entity ~~[network]~~ from attempting to resolve a complaint.

(b) The commissioner shall determine the information that a [A] health maintenance organization shall provide to each delegated entity ~~[network]~~ with which the health maintenance organization [it] has a delegation agreement. The information must include the following information, provided in standard electronic format [-] at least monthly unless otherwise stated [provided] in the agreement:

(1) the names and dates of birth or social security numbers of the

enrollees of the health maintenance organization who are eligible or assigned to receive services from the delegated entity [network], including the enrollees added and terminated since the previous reporting period;

(2) the age, sex, benefit plan and any riders to that benefit plan, and employer for the enrollees of the health maintenance organization who are eligible or assigned to receive services from the delegated entity [network];

(3) if the health maintenance organization pays any claims for the delegated entity [network], a summary of the number and amount of claims paid by the health maintenance organization on behalf of the delegated entity [network] during the previous reporting period, provided that a~~[—A]~~ delegated entity [network] is not precluded from receiving, upon request, additional nonproprietary information regarding such claims;

(4) if the health maintenance organization pays any claims for the delegated entity [network], a summary of the number and amount of pharmacy prescriptions paid for each enrollee for which the delegated entity [network] has taken partial risk during the previous reporting period, provided that a~~[—A]~~ delegated entity [network] is not precluded from receiving, upon request, additional nonproprietary information regarding such claims;

(5) information that enables the delegated entity [network] to file claims for reinsurance, coordination of benefits, and subrogation; and

(6) patient complaint data that relates to the delegated entity [network].

(c) In addition to the information required by Subsection (b) of this section, a health maintenance organization shall provide to a delegated entity [network with which it has a delegation agreement]:

(1) detailed risk-pool data, reported quarterly and on settlement; and

(2) the percent of premium attributable to hospital or facility costs, if hospital or facility costs impact the delegated entity's [network's] costs, reported quarterly, and, if there are changes in hospital or facility contracts with the health maintenance organization, the projected impact of those changes on the percent of premium attributable to hospital and facility costs within 30 days of such changes.

(d) A health maintenance organization that becomes aware of any [receives] information [through the monitoring plan required by Subsection (a)(1) of this section] that indicates the delegated entity [network] is not operating in accordance with its written agreement or is operating in a condition that renders the continuance of its business hazardous to the enrollees, shall~~[-~~ in writing]:

(1) notify the delegated entity in writing [network] of those findings; [and]

(2) request, in writing, a written explanation, with documentation supporting the explanation, of:

(A) the delegated entity's apparent [network's] noncompliance with the written agreement; or

(B) the existence of the condition that apparently renders the continuance of the delegated entity's [network's] business hazardous to the enrollees; and

(3) provide the commissioner with copies of all notices and requests submitted to the delegated entity and the responses and other documentation

the health maintenance organization generates or receives in response to the notices and requests.

(e) A delegated entity [network] shall respond to a request from a health maintenance organization under Subsection (d) of this section in writing not later than the 30th day after the date the request is received.

(f) The health maintenance organization shall cooperate with the delegated entity [network] to correct any failure by the delegated entity [network] to comply with the regulatory requirements of the department relating to any matters:

(1) delegated to the delegated entity [network] by the health maintenance organization; or

(2) necessary for the health maintenance organization to ensure compliance with statutory or regulatory requirements.

~~(g) [The health maintenance organization shall notify the department and request intervention if:~~

~~[(1) the health maintenance organization does not receive a timely response from the delegated network as required by Subsection (e) of this section; or~~

~~[(2) the health maintenance organization receives a timely response from the delegated network as required by Subsection (e) of this section, but the health maintenance organization and the delegated network are unable to reach an agreement as to whether the delegated network:~~

~~[(A) is complying with the written agreement; or~~

~~[(B) has corrected any problem regarding a practice that is hazardous to an enrollee of the health maintenance organization.~~

~~[(h) On receipt of a notice [request for intervention] under Subsection (d) [(g)] of this section, or if complaints are filed with the Texas Department of Insurance, the department may examine the matters contained in the notice as well as any other matter relating to the financial solvency of the delegated entity or the delegated entity's ability to meet its responsibilities in connection with any function delegated to the entity by the health maintenance organization [:~~

~~[(1) request financial and operational documents from the delegated network to further investigate deficiencies indicated by the monitoring plan;~~

~~[(2) conduct an on-site audit of the delegated network if the department determines that the delegated network is not complying with the monitoring standards required under Subsection (a)(1) of this section; or~~

~~[(3) notwithstanding any other provisions, upon violation of a monitoring plan, suspend or revoke the third party administrator license or utilization review agent license of:~~

~~[(A) the delegated network; or~~

~~[(B) a third party with which the delegated network has contracted].~~

(h) [(h)] Except as provided by this subsection, the Texas Department of Insurance, on completion of the department's examination, [The department] shall report to the delegated entity [network] and the health maintenance organization the results of the department's examination and any action the department determines is necessary to ensure that the health maintenance

organization meets its responsibilities under this Act, the Insurance Code, any other insurance laws of this state, and rules adopted by the commissioner, and that the delegated entity can meet its responsibilities in connection with any function delegated to the entity by the health maintenance organization. The [its review not later than the 60th day after the date of the department's initial request for documentation; provided, however, the] department may [shall] not report to the health maintenance organization any information regarding fee schedules, prices, cost of care, or other information not relevant to the monitoring plan.

(i) [(j)] The delegated entity and the health maintenance organization [network] shall respond to the department's report and submit a corrective plan to the Texas Department of Insurance [department and to the health maintenance organization] not later than the 30th day after the date of receipt of [the delegated network receives] the department's report. [The delegated network may withhold information regarding fee schedules, prices, cost of care, or other information not relevant to the monitoring plan.]

(j) [(k)] Reports and corrective plans required under Subsection (h) or (i) [(i) or (j)] of this section shall be treated as public documents, except that health care provider fee schedules, prices, costs of care, or other information not relevant to the monitoring plan and any other information that is considered confidential by law shall be considered confidential.

(k) [(h)] The department may request at any time that a delegated entity [network] take corrective action to comply with the department's statutory and regulatory requirements that:

(1) relate to any matters delegated by the health maintenance organization to the delegated entity [network]; or

(2) are necessary to ensure the health maintenance organization's compliance with statutory and regulatory requirements.

(l) [(m)] Regardless of whether [(f)] a delegated entity complies [network does not comply] with a [the department's] request for corrective action, the commissioner [department] may order the health maintenance organization to take any action the commissioner determines is necessary to ensure that the health maintenance organization is in compliance with this Act, including:

(1) reassuming the functions delegated to the delegated entity, including claims payments for services previously rendered to enrollees of the health maintenance organization;

(2) temporarily or permanently ceasing [cease] assignment of new enrollees to the delegated entity [network];

(3) [(2)] temporarily or permanently transferring [transfer] enrollees to alternative delivery systems to receive services; or

(4) terminating the health maintenance organization's [(3) modify or terminate its] contract with the delegated entity [network].

(m) [(n)] The Texas Department of Insurance [commissioner] shall maintain enrollee and provider complaints in a manner that identifies complaints made about limited provider networks and delegated entities [networks]. The department shall periodically issue a report on the complaints received by the department that includes a list of complaints by category, by action taken on the complaint, and by entity or network name and type. The department shall make the report available to the public and shall include information

to assist the public in evaluating the information contained in the report.

(n) Notwithstanding any other provision of this Act, the Insurance Code, or any other insurance law of this state, the commissioner may suspend or revoke the license of any third party administrator or utilization review agent that fails to comply with this section.

(o) The commissioner may impose sanctions or penalties under Chapters 82, 83, and 84, Insurance Code, against a health maintenance organization that does not provide timely information required by Subsections (b) and (c) of this section.

(p) A health maintenance organization shall by contract establish penalties for delegated entities that do not provide timely information required under a monitoring plan as required by Subsection (a)(1) of this section.

(q) This section does not apply to a group model health maintenance organization, as defined by Section 6A of this Act.

(r) The commissioner may adopt rules as necessary to [interpret;] implement [~~and enforce~~] this section.

SECTION 5. The Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) is amended by adding Sections 18D, 18E, 18F, and 18G to read as follows:

Sec. 18D. RESERVE REQUIREMENTS FOR DELEGATED NETWORK.

(a) A delegated network shall establish and maintain reserves that are adequate for the liabilities and risks assumed by the delegated network, as computed in accordance with accepted standards, practices, and procedures relating to the liabilities and risks reserved for, including known and unknown components and anticipated expenses of providing benefits or services.

(b) Except as provided by Subsections (c) and (d), the delegated network shall establish and maintain reserves as described by Subsection (e)(1) or (2) only with respect to the portion of services assumed under the delegation agreement that are not within the scope of the network's license for medical care or hospital or other institutional services, as applicable.

(c) If the scope of services assumed under the delegation agreement includes both medical care and hospital or institutional services, the delegated network shall establish and maintain reserves that are adequate to cover the liabilities and risks associated with medical care or with hospital or institutional services, whichever type of services has been allocated the largest portion of the premium by the health maintenance organization.

(d) If the delegated network assumes financial risk for medical care or hospital or institutional services and for prescription drugs, as defined by Section 551.003, Occupations Code, the network shall establish and maintain reserves that are adequate to cover the liabilities and risks associated with the prescription drug benefits, in addition to any other reserves required under this section.

(e) A delegated network shall maintain financial reserves equal to the greater of:

(1) 80 percent of the risk and liabilities that must be reserved under this section and that have been incurred but not paid by the delegated network; or

(2) two months of premium amount assumed by the delegated network for services that must be reserved under this section.

(f) The reserves required under this section must be secured by and only consist of legal tender of the United States or bonds of the United States or this state. The reserves must be held at a financial institution in this state that is chartered by the United States or this state. The reserves must be held in trust for, for the benefit of, or to provide health care services to, enrollees of the health maintenance organization under the agreement between the health maintenance organization and the delegated network.

(g) (1) A delegated network required to establish and maintain reserves under this section shall establish an escrow account for the payment of claims and deposit such reserves into the escrow account upon providing notice of its intent to terminate or non-renew a contract through which the delegated network assumed liabilities and risks from a health maintenance organization. Upon the establishment of the escrow account, the delegated network shall notify the Commissioner.

(2) A delegated network required to establish and maintain reserves under this section shall establish an escrow account for the payment of claims and deposit such reserves into the escrow account upon the modification of a contract through which the delegated network assumed liabilities and risks from a health maintenance organization if the modified contract eliminates the liabilities and risks previously assumed by the delegated network. Upon the establishment of the escrow account, the delegated network shall notify the Commissioner.

(2) 270 days after the date the reserves are deposited into the escrow account, the delegated network shall be entitled to the release of the remaining amounts held in escrow.

(3) the amounts released from the escrow account shall be distributed to those individuals who contributed to the reserves deposited into escrow in proportion to the individuals' total contribution.

(4) The Commissioner shall, and has the authority to, take any action necessary to ensure the release of any amounts remaining in escrow in excess of the 270 day time period in subsection (g)(2).

(h) This section does not apply to a group model health maintenance organization, as defined by Section 6A of this Act.

Sec. 18E. CERTAIN PHYSICIAN AND PROVIDER CONTRACTS; CONTINUITY OF CARE FOR CERTAIN ENROLLEES. (a) In this section, "special circumstance" means a condition for which the treating physician or provider reasonably believes that discontinuing care by the treating physician or provider could cause harm to the patient.

(b) Each contract between a health maintenance organization and a limited provider network or delegated entity must require that each contract between the network or entity and a physician or provider provide that:

(1) reasonable advance notice be given to an enrollee of the impending termination from the limited provider network or delegated entity of a physician or provider who is currently treating the enrollee; and

(2) the termination of the physician or provider contract, except for reason of medical competence or professional behavior, does not release the limited provider network or delegated entity from the obligation to reimburse a physician or provider who is treating an enrollee of special circumstance, such as a person who has a disability, acute condition, or life-threatening

illness or is past the 24th week of pregnancy, at a rate that is not less than the contract rate for that enrollee's care in exchange for continuity of ongoing treatment of an enrollee then receiving medically necessary treatment in accordance with the dictates of medical prudence.

(c) A special circumstance shall be identified by the treating physician or provider, who must request that the enrollee be permitted to continue treatment under the physician's or provider's care and agree not to seek payment from the patient of any amounts for which the enrollee would not be responsible if the physician or provider were still in the limited provider network or delegated entity.

(d) Contracts between a limited provider network or delegated entity and physicians or providers shall provide procedures for resolving disputes regarding the necessity for continued treatment by a physician or provider.

(e) This section does not extend the obligation of a limited provider network or delegated entity to reimburse a terminated physician or provider for ongoing treatment of an enrollee beyond the 90th day after the effective date of the termination, or beyond nine months in the case of an enrollee who at the time of the termination has been diagnosed with a terminal illness. However, the obligation of the limited provider network or delegated entity to reimburse the terminated physician or provider or, if applicable, the enrollee for services to an enrollee who at the time of the termination is past the 24th week of pregnancy, extends through delivery of the child, immediate postpartum care, and the follow-up checkup within the first six weeks of delivery.

Sec. 18F. OUT-OF-NETWORK SERVICES OF LIMITED PROVIDER NETWORK OR DELEGATED ENTITY. (a) Each contract between a health maintenance organization and a limited provider network or delegated entity must provide that if medically necessary covered services are not available through network physicians or providers, the limited provider network or delegated entity must, on request of a network physician or provider, allow a referral to a non-network physician or provider and shall fully reimburse the non-network provider at the usual and customary or an agreed-upon rate.

(b) The referral shall be allowed within the time appropriate to the circumstances relating to the delivery of the services and the condition of the patient, but not later than the fifth business day after the date any reasonably requested documentation is received by the limited provider network or delegated entity.

(c) The enrollee may not be required to change the enrollee's primary care physician or specialist providers to receive medically necessary covered services that are not available within the limited provider network or delegated entity.

(d) Each contract must also provide for a review by a specialist of the same or similar specialty as the type of physician or provider to whom a referral is requested before the limited provider network or delegated entity may deny a referral.

(e) A denial of out-of-network services under this section is subject to appeal under Article 21.58A, Insurance Code.

Sec. 18G. COMPLIANCE OF LIMITED PROVIDER NETWORK OR DELEGATED ENTITY WITH CERTAIN REQUIREMENTS. A limited provider network or delegated entity shall comply with all statutory and

regulatory requirements relating to any function, duty, responsibility, or delegation assumed by or carried out by the limited provider network or delegated entity under this Act.

SECTION 6. Section 5, Chapter 621, Acts of the 76th Legislature, Regular Session, 1999, is repealed.

SECTION 7. The change in law made by this Act applies only to a contract entered into or renewed on or after January 1, 2002. A contract entered into before January 1, 2002, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2001.

HB 2853 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2853, A bill to be entitled An Act relating to studies performed by, and information gathered and analyzed by, the legislative council.

On motion of Representative Bosse, the house concurred in the senate amendments to **HB 2853** by (Record 470): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Gallego; Garcia; George; Geren; Giddings; Glaze; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Marchant; Sadler; Tillery.

Absent — Callegari; Flores; Goodman; Keel; Wilson.

STATEMENT OF VOTE

When Record No. 470 was taken, my vote failed to register. I would have voted yes.

Keel

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2853** by striking Section 1 of the bill and renumbering the remaining sections accordingly.

**HB 2912 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2912, A bill to be entitled An Act relating to the continuation and functions of the Texas Natural Resource Conservation Commission.

Representative Bosse moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2912**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2912**: Bosse, chair, Chisum, Puente, Dukes, and Counts.

**HB 2959 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2959, A bill to be entitled An Act relating to the board of supervisors and the powers of the Brookshire-Katy Drainage District; providing a civil penalty.

On motion of Representative Williams, the house concurred in the senate amendments to **HB 2959** by (Record 471): 142 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Marchant; Sadler; Tillery.

Absent — Corte; King, T.; Naishtat.

STATEMENT OF VOTE

When Record No. 471 was taken, I was temporarily out of the house chamber. I would have voted yes.

Corte

Senate Committee Substitute

CSHB 2959, A bill to be entitled An Act relating to the board of supervisors and the powers of the Brookshire-Katy Drainage District; providing a civil penalty.

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

SECTION 1. Chapter 203, Acts of the 57th Legislature, Regular Session, 1961, is amended by adding Section 1A to read as follows:

Sec. 1A. The legislature finds that the boundaries of the District as described in Section 1 of this Act and the field notes relating to those boundaries form a closure, and any mistake made in copying the field notes in the legislative process, or a mistake otherwise made in the field notes, does not affect the organization, existence, or validity of the District, or the authority of the District to take any action authorized by this Act and the General Laws, or in any other manner affect the legality or operation of the District or its governing body, it being the intention of the legislature that all of the land included in the District as created in 1961 be included in those boundaries.

SECTION 2. Section 2, Chapter 203, Acts of the 57th Legislature, Regular Session, 1961, is amended to read as follows:

Sec. 2. Said District shall be considered to be organized and existing for the sole purpose of the reclamation and drainage of its overflowed lands and other lands needing drainage, and to accomplish such purpose the District shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, and duties conferred and imposed by the General Laws of the State of Texas, now in force or hereafter enacted, applicable to fresh water supply districts created under authority of Section 59 of Article XVI, Constitution of Texas, including Chapters 49 and 53, Water Code, but to the extent that the provisions of such General Laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such General Laws are hereby incorporated with the same effect as if incorporated in full in this Act. Without limiting the generalization of the foregoing, it is expressly provided that all said powers now or hereafter conferred by such General Laws upon fresh water supply districts for the purpose of conserving, transporting and distributing fresh water are hereby specifically conferred upon this District for the purpose of reclaiming and draining its overflowed lands and other lands needing drainage. ~~[In the event that the District, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, re-~~

~~routing or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction shall be accomplished at the sole expense of the District. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, re-routing, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility. The exercise of the power of eminent domain shall not extend beyond the boundaries of the authority, as defined herein.]~~

SECTION 3. Section 4, Chapter 203, Acts of the 57th Legislature, Regular Session, 1961, is amended to read as follows:

Sec. 4. The Assessor and Collector of taxes of Waller County shall, ex officio, be the Assessor and Collector of taxes for the District. For services to the District in assessing and collecting taxes for the District, the Assessor and Collector may deduct from all taxes collected on the current year's tax rolls an amount of money to which the Board of Supervisors agrees, not to exceed the amount provided by the General Laws relative to the assessment, levy, and collection of ad valorem taxes. For the collection of delinquent taxes the Assessor and Collector may receive compensation in the same manner as the Assessor and Collector receives for collecting delinquent state and county taxes. The Assessor and Collector may not duplicate a charge made for costs of suit related to enforcement of state and county taxes. ~~[The blanks used by the Assessor and Collector to accept rendition of property for taxation by the County shall be printed so as to show that the rendition of property situated in the District is also made for the benefit of the District. The property which is situated in the District shall be clearly indicated on the approved tax rolls in the office of the Assessor and Collector. The value of property situated in the District as equalized by the Board of Equalization of Waller County, finally approved by the Commissioners Court of Waller County and as extended on the approved tax rolls of Waller County shall constitute the assessed values of such property for purposes of District taxation. Within five (5) days after the approval of the report of the Board of Equalization by the Commissioners Court of the County, the Assessor and Collector of taxes shall certify to the District the total assessed valuation of property situated in the District according to such approved rolls.]~~

SECTION 4. Section 5, Chapter 203, Acts of the 57th Legislature, Regular Session, 1961, is amended to read as follows:

Sec. 5. Taxes shall be levied and collected under the provisions of the General Laws applicable to fresh water districts, including Chapters 49 and 53, Water Code, and when an election is required by the General Laws, before taxes may be levied or increased, the District must hold an election as provided by Section 49.107, Water Code. The total amount of taxes levied by the District for all purposes shall never in any one (1) year exceed seventy-five cents (75¢) on the one hundred dollar valuation of taxable property within the District. ~~[No such tax shall be levied, however, until authorized at an election called for that purpose by the Board of Supervisors, at which a majority of the qualified voters voting at such election vote in favor of the levy and collection of such tax. For his services rendered to the District in~~

~~assessing and collecting taxes for the District, the Assessor and Collector shall be entitled to deduct from all taxes thus collected on the current year's tax rolls a sum as agreed upon by the Board of Supervisors, not to exceed the amount provided by the General Laws relative to the assessment, levy and collection of ad valorem taxes, and for the collection of delinquent taxes compensation in like manner to that which he receives in collecting delinquent State and County taxes, provided that no duplicated charge shall be made for costs of suit where a charge is made in reference to enforcement of State and County taxes.]~~

SECTION 5. Chapter 203, Acts of the 57th Legislature, Regular Session, 1961, is amended by adding Sections 6A, 6B, 6C, and 6D to read as follows:

Sec. 6A. (a) On or after September 1, 2001, a person may not construct drainage facilities or improvements on or to serve a tract of land in the District unless the District has approved the plans and specifications for the drainage facilities or improvements.

(b) Notwithstanding Subsection (a), plans and specifications for drainage facilities or improvements located within the corporate limits or the extraterritorial jurisdiction of a municipality require only the approval of the municipality if:

(1) the municipality's corporate limits are located in more than one county;

(2) part of the municipality's corporate limits and extraterritorial jurisdiction in Waller County is located within the District;

(3) the municipality has a population of less than 100,000; and

(4) the drainage facilities or improvements are located outside District-owned property or facilities.

(c) The District may adopt reasonable rules and set reasonable standards to provide for adequate drainage construction in accordance with standard engineering practices. The rules and standards may require the drainage plan to be generally compatible with the District's master plan.

(d) The District by rule may establish procedures for presenting plans and specifications to the District and for review and disposition of the plans and specifications by the District.

(e) The District, after review by its engineer, shall determine the cost of any drainage facilities or improvements and recommend to the appropriate governing body with jurisdiction over the subdivision that a surety bond or other approved security in that amount for the construction of drainage facilities or improvements be secured in the name of the governing body. If the governing body does not secure a bond, the District may secure a bond for the cost of construction of drainage facilities or improvements.

(f) The District may refuse to approve plans and specifications that do not comply with District rules. The District may refuse to approve plans and specifications until all applicable fees have been paid.

(g) This section does not apply to:

(1) agricultural activity; or

(2) any other activity that does not create an aggregate impervious area of more than one acre.

(h) This section does not limit the authority or jurisdiction of a municipality or county to regulate plans and specifications for the construction

of drainage facilities or improvements other than facilities owned or maintained by the District. The District's rules and standards for the construction of drainage facilities or improvements do not apply to a facility or improvement not owned or maintained by the District inside the corporate limits of a municipality unless the governing body of the municipality or county requires the person to submit the plans and specifications for drainage construction to the District.

Sec. 6B. (a) Rules adopted by the District must be consistent with Chapters 49 and 53, Water Code.

(b) The District may not exercise its power of eminent domain outside the District without the express consent of the governing body of the municipality or the commissioners court of the county in which the territory being condemned is located.

Sec. 6C. (a) A person who violates this Act or a rule adopted under this Act is liable to the District for a civil penalty of not less than \$10 or more than \$200 for each offense. Each day a violation continues is a separate offense. A penalty under this section is in addition to any other penalty authorized by law.

(b) The District may sue in a district court to enjoin a violation or threatened violation of this Act or a rule adopted under this Act. The District may sue for injunctive relief and a civil penalty in the same proceeding.

(c) If the District sues to recover a civil penalty or for injunctive relief under this Act, or to recover any fee or charge under this Act, the court may include in any final judgment in favor of the District an award for damages, the recovery of court costs, and reasonable attorney's fees.

Sec. 6D. Chapter 311, Government Code (Code Construction Act), applies to this Act.

SECTION 6. The changes in law made by this Act do not invalidate, infringe on, or change the rights, duties, powers, or privileges of any municipality, county, or other political subdivision of this state as provided by the constitution of this state or other laws governing those political subdivisions.

SECTION 7. The maintenance tax authorized by the voters of the Brookshire-Katy Drainage District at the August 12, 1961, election is validated by this Act for the purposes and in the amount authorized at that election.

SECTION 8. (a) The changes in law made by Sections 1-6 of this Act take effect only on a majority vote in favor of the changes by the qualified voters of the Brookshire-Katy Drainage District at an election called and held for that purpose.

(b) As soon as possible after the passage of this Act by the 77th Legislature, the board of supervisors of the Brookshire-Katy Drainage District shall order an election on the question of approving the changes in law made by Sections 1-6 of this Act.

(c) An election ordered under Subsection (b) of this section shall be held on the next uniform election date under Section 41.001, Election Code, that is on or after the 45th day following the date the election is ordered.

(d) Sections 1-6 of this Act take effect on the 45th day after the date of the election only if a majority of the votes cast at the election favor the changes in law made by Sections 1-6 of this Act.

(e) If a majority of the votes cast at the election are against the changes in law made by Sections 1-6 of this Act, the board of supervisors may call and hold a subsequent election to confirm those changes. The subsequent election must be held, to the extent practicable, as provided by Subsections (c) and (d) of this section. An election under this subsection may not be held earlier than the first anniversary after the date on which the previous election was held. If the changes in law made by Sections 1-6 of this Act are not approved by the voters before September 1, 2003, this Act expires.

(f) Except as otherwise provided by this section, an election held under this section must be conducted as provided by the Election Code.

SECTION 9. (a) This section and Sections 7 and 8 of this Act take effect immediately if the Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section and Sections 7 and 8 take effect September 1, 2001.

(b) Except as provided by Subsection (a) of this section, Sections 1-6 of this Act take effect contingent on an election held in the Brookshire-Katy Drainage District to approve the changes in law made by this Act, as provided by Section 8 of this Act.

HB 3286 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative R. Lewis called up with senate amendments for consideration at this time,

HB 3286, A bill to be entitled An Act relating to water conservation measures by state agencies and local governments.

On motion of Representative R. Lewis, the house concurred in the senate amendments to **HB 3286**.

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

Amend **HB 3286** by adding new SECTIONS 11-13 to read as follows and renumber the subsequent section appropriately:

SECTION 11. Sec. 44.901, Education Code, is amended by adding subsection (j) to read as follows:

(j) Prior to entering into a contract under this section, the board must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who is not an officer or employee of an offeror for the contract under review or otherwise associated with the contract or the offeror. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Section 19, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), applies to work performed under the contract.

SECTION 12. Sec. 302.005, Local Government Code, is amended by adding subsection (d) to read as follows:

(d) Prior to entering into a contract under this section, the governing body must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who is not an officer or employee of an offeror for the contract under review or otherwise associated with the contract

or the offeror. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Section 19, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), applies to work performed under the contract.

SECTION 13. Sec. 2166.406(i), Government Code, is amended to read as follows:

(i) A contract under this section may be let under competitive sealed proposal procedures. Notice of the request for proposals shall be given in the manner provided for in Chapter 2156. The State Energy Conservation Office shall establish guidelines and an approval process for contracts awarded under this section. The guidelines adopted under this subsection must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who is not an officer or employee of an offeror for the contract under review or otherwise associated with the contract. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Section 19, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), applies to work performed under the contract ~~[Before awarding the contract, the state agency shall submit the selected proposal to the State Energy Conservation Office and the Texas Energy Coordination Council for review and comment before awarding the contract. The State Energy Conservation Office and the Texas Energy Coordination Council will provide a cost benefit analysis of the proposals and an analysis of the guaranteed savings projected by offerors and may charge a fee for this service].~~ The contract shall be awarded to the responsible offeror whose proposal, following negotiations, is determined to be the most advantageous to the state agency considering the savings and other evaluation factors set forth in the request for proposals except that if the state agency finds that no offer is acceptable, it shall refuse all offers.

HB 3309 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3309, A bill to be entitled An Act relating to the development, funding, and operation of the Southeast Texas Biotechnology Park.

On motion of Representative Hochberg, the house concurred in the senate amendments to **HB 3309** by (Record 472): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas -- Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge;

Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting -- Mr. Speaker(C).

Absent, Excused -- Hilbert.

Absent, Excused, Committee Meeting -- Marchant; Sadler; Tillery.

Senate Committee Substitute

CSHB 3309, A bill to be entitled An Act relating to the development, funding, and operation of the Southeast Texas Biotechnology Park.

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

SECTION 1. Subtitle F, Title 4, Government Code, is amended by adding Chapter 488 to read as follows:

CHAPTER 488. SOUTHEAST TEXAS BIOTECHNOLOGY PARK

Sec. 488.001. COALITION ESTABLISHMENT. The Southeast Texas Biotechnology Park Coalition is established. The coalition is composed of public and private health-related institutions, and other private for-profit and nonprofit and governmental institutions, and is established for the purpose of developing, funding, and operating a biotechnology research and development park to be known as the Southeast Texas Biotechnology Park.

Sec. 488.002. PURPOSE; LOCATION. (a) The park shall be operated for the purposes of:

- (1) furthering the mission of the coalition members;
- (2) economic development of the state, including the production of net revenue to the state and coalition members, from the commercialization of biotechnology research;
- (3) recruiting and retaining leading scientists and established biotechnology enterprises; and
- (4) supporting the growth and development of new biotechnology enterprises.

(b) The park shall be located in the area of Houston, Texas, known as the Texas Medical Center.

Sec. 488.003. COALITION MEMBERS. The membership of the coalition may include any interested governmental or private for-profit or nonprofit institution, including:

- (1) Baylor College of Medicine;
- (2) Johnson Space Center of the National Aeronautics and Space Administration;
- (3) Memorial Hermann Health Care System;

- (4) Rice University;
- (5) St. Luke's Episcopal Health System/Texas Heart Institute;
- (6) Texas Southern University;
- (7) TIRR Systems;
- (8) the University of Houston System;
- (9) The University of Texas M. D. Anderson Cancer Center;
- (10) The University of Texas Medical Branch at Galveston; and
- (11) The University of Texas Health Science Center at Houston.

Sec. 488.004. NONPROFIT CORPORATION. The coalition may establish a nonprofit corporation to develop and operate the park.

Sec. 488.005. LAND AND INFRASTRUCTURE. The park may be developed on land owned by the State of Texas and made available for that purpose, as well as on land acquired by the state, the nonprofit corporation, or a member institution for purposes of the park.

Sec. 488.006. INVESTMENT; FUNDING. (a) The park shall be developed as a public-private partnership in which both public institutions and private entities contribute to the development, funding, and operation of the park.

(b) Leases producing revenue to state institutions participating in the development of the park shall be at market rates.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

HB 3421 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3421, A bill to be entitled An Act relating to the licensure of physician assistants.

On motion of Representative Farabee, the house concurred in the senate amendments to **HB 3421**.

Senate Committee Substitute

CSHB 3421, A bill to be entitled An Act relating to the licensure of physician assistants.

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

SECTION 1. Section 204.155(b), Occupations Code, is amended to read as follows:

(b) A temporary license may be [is] valid for not more than one year [100 days] after the date issued as determined by board rule [and may be extended for not more than an additional 30 days after the expiration date of the initial temporary license].

SECTION 2. Subchapter G, Chapter 204, Occupations Code, is amended by adding Sections 204.310 and 204.311 to read as follows:

Sec. 204.310. REQUIRED SUSPENSION OF LICENSE OF INCARCERATED PHYSICIAN ASSISTANT. Regardless of the offense, the physician assistant board shall suspend the license of a physician assistant serving a prison term in a state or federal penitentiary during the term of the incarceration.

Sec. 204.311. TEMPORARY SUSPENSION. (a) The presiding officer of the physician assistant board, with board approval, shall appoint a three-member disciplinary panel consisting of board members to determine whether a person's license to practice as a physician assistant should be temporarily suspended.

(b) If the disciplinary panel determines from the evidence or information presented to the panel that a person licensed to practice as a physician assistant would, by the person's continuation in practice, constitute a continuing threat to the public welfare, the disciplinary panel shall temporarily suspend the license of that person.

(c) A license may be suspended under this section without notice or hearing on the complaint if:

(1) institution of proceedings for a hearing before the physician assistant board is initiated simultaneously with the temporary suspension; and

(2) a hearing is held under Chapter 2001, Government Code, and this chapter as soon as possible.

(d) Notwithstanding Chapter 551, Government Code, the disciplinary panel may hold a meeting by telephone conference call if immediate action is required and convening of the panel at one location is inconvenient for any member of the disciplinary panel.

SECTION 3. This Act takes effect September 1, 2001.

HB 3626 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3626, A bill to be entitled An Act relating to the ratification of the creation of and to the administration, powers, duties, operation, and financing of the Tri-County Groundwater Conservation District.

On motion of Representative Hardcastle, the house concurred in the senate amendments to **HB 3626**.

Senate Committee Substitute

CSHB 3626, A bill to be entitled An Act relating to the ratification of the creation of and to the administration, powers, duties, operation, and financing of the Tri-County Groundwater Conservation District.

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

SECTION 1. RATIFICATION OF CREATION. The creation by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999 (Senate Bill No. 1911), of the Tri-County Groundwater Conservation District in Foard, Hardeman, and Wilbarger counties is ratified as required by Section 15(a) of that Act, subject to approval at a confirmation election under Section 8 of this Act.

SECTION 2. DEFINITION. In this Act, "district" means the Tri-County Groundwater Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Foard, Hardeman, and Wilbarger counties.

SECTION 4. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act, including any provision of Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999 (Senate Bill No. 1911).

(b) Notwithstanding Subsection (a) of this section, the following provisions prevail over a conflicting or inconsistent provision of this Act:

- (1) Sections 36.107-36.108, Water Code;
- (2) Sections 36.159-36.161, Water Code; and
- (3) Subchapter I, Chapter 36, Water Code.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of six directors.

(b) Initial directors serve until permanent directors are appointed under Section 7 of this Act and qualified as required by Subsection (c) of this section.

(c) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(d) Directors other than initial directors serve staggered four-year terms.

(e) A director serves until the director's successor has qualified.

(f) If there is a vacancy on the board, the appropriate commissioners court shall appoint a director to serve the remainder of the term.

(g) The appropriate commissioners court shall appoint a director to succeed a director on or before the date the director's term expires.

(h) A director may not receive a salary or other compensation for service as a director but may be reimbursed for actual expenses of attending meetings.

SECTION 6. APPOINTMENT AND TERMS OF INITIAL DIRECTORS.

(a) As soon as practicable after the effective date of this Act, the commissioners courts of Foard, Hardeman, and Wilbarger counties shall each appoint two initial directors.

(b) The initial directors shall serve terms as follows:

(1) the two initial directors appointed by the Foard County Commissioners Court shall serve terms expiring February 1, 2002;

(2) the two initial directors appointed by the Hardeman County Commissioners Court shall serve terms expiring February 1, 2004; and

(3) the two initial directors appointed by the Wilbarger County Commissioners Court shall serve terms expiring February 1, 2006.

SECTION 7. APPOINTMENT OF DIRECTORS. (a) The commissioners court of each county in the district shall appoint two directors.

(b) If the district consists of two counties, the commissioners courts of these counties shall appoint three directors.

(c) If the district consists of one county, the commissioners court of that county shall appoint six directors.

SECTION 8. CONFIRMATION ELECTION. (a) The initial board of directors shall call and hold an election on the same date in each county within the district to confirm the creation of the district.

(b) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017, 36.018, and 36.019, Water Code, and Section 41.001, Election Code.

(c) If the majority of qualified voters in a county who vote in the election vote to confirm the creation of the district, that county is included in the district. If the majority of qualified voters in a county who vote in the election vote not to confirm the creation of the district, that county is excluded from the district.

SECTION 9. TAXING AUTHORITY. The district may levy and collect an ad valorem tax in the district at a rate not to exceed one cent on each \$100 of assessed valuation.

SECTION 10. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 11. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act takes effect September 1, 2001.

(b) If the creation of the district is not confirmed at a confirmation election held under Section 8 of this Act before September 1, 2003, this Act expires on that date.

**HJR 97 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HJR 97, A joint resolution proposing a constitutional amendment authorizing the issuance of general obligation bonds for construction and repair projects.

Representative Junell moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HJR 97**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HJR 97**: Junell, chair, West, Heflin, Gallego, and Coleman.

HB 459 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 459, A bill to be entitled An Act relating to higher education tuition and fee exemptions for children of dead or disabled firefighters or peace officers.

On motion of Representative Carter, the house concurred in the senate amendments to **HB 459** by (Record 473): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Marchant; Sadler; Tillery.

Absent — Dutton; Wolens.

Senate Committee Substitute

CSSH 459, A bill to be entitled An Act relating to higher education tuition and fee exemptions for children of dead or disabled firefighters or peace officers.

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

SECTION 1. Section 54.204(a)(1), Education Code, is amended to read as follows:

(1) "Eligible employee" means a full-paid or volunteer firefighter [fireman], or a full-paid municipal, county, or state peace officer, or a custodial employee of the Texas Department of Corrections, or a game warden[; who has a child under 21 years of age].

SECTION 2. Section 54.204, Education Code, is amended by amending Subsections (c) and (d) and adding Subsection (e) to read as follows:

(c) A person is not entitled to the exemption if the person [he]:

(1) does not apply initially for the exemption before the date the person:

(A) [he] becomes 21 years of age, if the person is not covered by Paragraph (B); or

(B) becomes 22 years of age, if the person is eligible to participate in a school district's special education program under Section 29.003;

(2) does not meet all entrance requirements of the institution; or

(3) does not maintain a scholastic average sufficient to remain in good standing.

(d) Subject to Subsection (e), a [A] person may receive [loses his right to] an exemption only for the first 120 undergraduate semester credit hours [after eight consecutive semesters, not including summer semesters, beginning with the first semester] for which the person [he] registers.

(e) A person is not entitled to an exemption for any term or semester the person begins after the date the person becomes 26 years of age.

SECTION 3. (a) The change in law made by this Act applies only to a person who applies for an exemption from dues, fees, and charges under Section 54.204, Education Code, on or after the effective date.

(b) This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HR 1131 - ADOPTED
(by Yarbrough)

Representative Yarbrough moved to suspend all necessary rules to take up and consider at this time **HR 1131**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1131, Honoring Charles E. and Evelyn Cernik of Houston on their 50th wedding anniversary.

HR 1131 was adopted without objection.

SB 377 - VOTE RECONSIDERED

Representative Uher moved to reconsider the vote by which **SB 377** failed to pass to third reading.

The motion to reconsider prevailed.

SB 377 ON SECOND READING
(Madden - House Sponsor)

SB 377, A bill to be entitled An Act relating to a local option election for the sale of beer and wine in certain cities or towns located in more than one county.

SB 377 was read second time on May 16 and failed to pass to third reading.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **SB 1**:

Junell on motion of Corte.

SB 377 - (consideration continued)

(Marchant now present)

A record vote was requested.

SB 377 was passed to third reading by (Record 474): 102 Yeas, 32 Nays, 5 Present, not voting.

Yeas — Alexander; Allen; Bailey; Berman; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chisum; Christian; Clark; Cook; Counts; Craddick; Danburg; Davis, J.; Delisi; Denny; Deshotel; Dukes; Dunnam; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Gallego; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Hilderbran; Hochberg; Homer; Hope; Hopson; Hunter; Hupp; Isett; Janek; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Madden; Marchant; Martinez Fischer; Maxey; McCall; McReynolds; Menendez; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Pickett; Pitts; Ramsay; Rangel; Raymond; Reyna, E.; Ritter; Seaman; Smith; Smithee; Solomons; Swinford; Talton; Telford; Truitt; Turner, B.; Uher; Walker; West; Williams; Wilson; Woolley; Yarbrough; Zbrank.

Nays — Capelo; Chavez; Corte; Crabb; Davis, Y.; Driver; Dutton; Flores; Garcia; George; Geren; Glaze; Green; Heflin; Hill; Hodge; Howard; Longoria; Luna; Merritt; Oliveira; Olivo; Puente; Reyna, A.; Salinas; Shields; Solis; Uresti; Villarreal; Wise; Wohlgenuth; Wolens.

Present, not voting — Mr. Speaker(C); Giddings; Hartnett; Jones, D.; Turner, S.

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Junell; Sadler; Tillery.

Absent — Averitt; Bonnen; Coleman; Crownover; Hinojosa; McClendon; Thompson.

SB 354 - VOTE RECONSIDERED

Representative Coleman moved to reconsider the vote by which **SB 354** was passed.

(Geren in the chair)

The motion to reconsider prevailed.

SB 354 ON THIRD READING**(Coleman - House Sponsor)**

SB 354, A bill to be entitled An Act relating to the powers of a local government corporation.

Amendment No. 1

Representative Coleman offered the following amendment to **SB 354**:

Amend **SB 354** on 3rd reading in SECTION 3 by striking the language added by the Clark amendment, Floor Amendment No. 2, that reads "applies only to a contract, public notice of which is first published by a local government corporation on or after the effective date of this Act. A contract, public notice of which was first published by a local government corporation before the effective date of this Act is governed by" and substituting the following:

"applies to all contracts entered into by a local government corporation on or after the effective date of this Act unless a local government corporation first published notice of the contract on or before May 15, 2001. A contract, public notice of which was first published by a local government corporation on or before May 15, 2001, is governed by".

Amendment No. 1 was adopted without objection.

SB 354, as amended, was passed.

POSTPONED BUSINESS

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

SB 393 ON SECOND READING**(Brimer - House Sponsor)**

SB 393, A bill to be entitled An Act relating to the Uniform Electronic Transactions Act and electronic records.

SB 393 was read second time on May 10, postponed until May 14, and was again postponed until this time.

Amendment No. 1

Representative Hochberg offered the following amendment to **SB 393**:

Amend **SB 393** at the end of Section 6(a) (on page 18, line 10), between "time to time" and the period by inserting the following:

, and specifically does not authorize the electronic delivery of any notice of the type described by Section 103(b), Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7003), as amended from time to time, including:

(1) any notice of:

(A) the cancellation or termination of utility services (including water, heat, and power);

(B) default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual;

(C) the cancellation or termination of health insurance or benefits or life insurance benefits (excluding annuities); or

(D) recall of a product, or material failure of a product, that risks endangering health or safety; or

(2) any document required to accompany any transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Hochberg offered the following amendment to **SB 393**:

Amend **SB 393** by striking Subsections (b) and (c) of SECTION 6 of the bill (house committee report, page 18, line 11, through page 19, line 3), and substituting the following:

(b) If a federal regulatory agency under Section 104(d)(1), Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7004), exempts a specified category or type of record from the requirements relating to consent in Section 101(c), Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001), or if a federal regulatory agency under Section 103(c)(2), Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7003), removes an exception for a type of document from the application of Section 101, Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001), the regulatory agency of this state with jurisdiction over the subject matter with respect to which the federal action was taken may exempt the specified category or type of record from the application of Chapter 43, Business & Commerce Code, as added by this Act. An exemption under this subsection must be by rule or order of the state regulatory agency after notice and an opportunity for public comment.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Hartnett offered the following amendment to **SB 393**:

Amend **SB 393** as follows:

On page 11, between lines 8 and 9 insert the following:

(e) This section does not in any way validate any agreement involving

(i) the unlawful sale of a controlled substance, drug paraphernalia, or marihuana; or

(ii) the interaction of an electronic agent containing a video interface with an individual as part of, or in furtherance of, a game that provides a reward for play consisting of items redeemable for money or merchandise and is determined solely or partially by chance, even though accompanied by some skill.

Representative Garcia raised a point of order against further consideration of Amendment No. 3 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill

The chair overruled the point of order.

Representative Haggerty moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 475): 94 Yeas, 46 Nays, 2 Present, not voting.

Yeas — Alexander; Bailey; Bosse; Brimer; Burnam; Capelo; Carter; Chavez; Clark; Coleman; Cook; Counts; Danburg; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hawley; Hilderbran; Hinojosa; Hochberg; Hodge; Homer; Hopson; Howard; Jones, E.; Jones, J.; King, T.; Kitchen; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Ritter; Salinas; Solis; Solomons; Thompson; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Allen; Berman; Bonnen; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Corte; Crabb; Craddick; Crownover; Denny; Driver; Elkins; George; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hope; Hunter; Hupp; Isett; Janek; Keel; Keffer; King, P.; Kolkhorst; Krusee; McCall; Miller; Morrison; Mowery; Nixon; Reyna, E.; Seaman; Shields; Smith; Smithee; Swinford; Talton; Truitt; West; Williams.

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

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Junell; Sadler; Tillery.

Absent — Averitt; Green; Jones, D.; Telford.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 475. I intended to vote no.

Delisi

I was shown voting yes on Record No. 475. I intended to vote no.

Marchant

I was shown voting yes on Record No. 475. I intended to vote no.

Woolley

Amendment No. 4

Representative Hartnett offered the following amendment to **SB 393**:

Amend **SB 393** in section 1 of the bill, following added section 43.019, Business & Commerce Code, by inserting the following:

Sec. 43.020. APPLICABILITY OF PENAL CODE. "This chapter does not authorize any activity that is prohibited by the Penal Code."

Amendment No. 4 was adopted without objection.

SB 393, as amended, was passed to third reading.

SB 1536 ON SECOND READING

(Chavez, Wohlgenuth, Telford, and Puente - House Sponsors)

SB 1536, A bill to be entitled An Act relating to the establishment of pilot projects to demonstrate the applications of technology in providing certain services under the medical assistance program.

SB 1536 was read second time on May 10, postponed until May 15, and was again postponed until this time.

Amendment No. 1

Representative Puente offered the following amendment to **SB 1536**:

Amend **SB 1536** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.02171 and 531.02172 to read as follows:

Sec. 531.02171. **TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH SERVICES PILOT PROGRAMS.** (a) In this section:

(1) "Health professional" means:

(A) a physician;

(B) an individual who is licensed or certified in this state to perform health care services and who is authorized to assist a physician in providing telemedicine medical services that are delegated and supervised by the physician; or

(C) a licensed or certified health professional acting within the scope of the license or certification who does not perform a telemedicine medical service.

(2) "Physician" means a person licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

(3) "Telehealth service" has the meaning assigned by Section 57.042, Utilities Code.

(4) "Telemedicine medical service" has the meaning assigned by Section 57.042, Utilities Code.

(b) The commission shall establish pilot programs in designated areas of this state under which the commission, in administering government-funded health programs, may reimburse a health care professional participating in the pilot program for telemedicine medical services or telehealth services authorized under the licensing law applicable to the health care professional. Each pilot program established before January 1, 2003, must provide services in areas

of this state that are not more than 150 miles from the border between this state and the United Mexican States.

(c) In developing and operating a pilot program under this section, the commission shall:

(1) solicit and obtain support for the program from local officials and the medical community;

(2) focus on enhancing health outcomes in the area served by the pilot program through increased access to medical or health care services, including:

(A) health screenings;

(B) prenatal care;

(C) medical or surgical follow-up visits;

(D) periodic consultation with specialists regarding chronic disorders;

(E) triage and pretransfer arrangements; and

(F) transmission of diagnostic images or data;

(3) establish quantifiable measures and expected health outcomes for each authorized telemedicine medical service or telehealth service;

(4) consider condition-specific applications of telemedicine medical services or telehealth services, including applications for:

(A) pregnancy;

(B) diabetes;

(C) heart disease; and

(D) cancer; and

(5) demonstrate that the provision of services authorized as telemedicine medical services or telehealth services will not adversely affect the delivery of traditional medical services or other health care services within the area served by the pilot program.

Sec. 531.02172. TELEMEDICINE ADVISORY COMMITTEE. (a) The commissioner shall establish an advisory committee to assist the commission in:

(1) evaluating policies for telemedical consultations under Section 531.0217;

(2) evaluating policies for telemedicine medical service or telehealth service pilot programs established under Section 531.02171;

(3) ensuring the efficient and consistent development and use of telecommunication technology for telemedical consultations and telemedicine medical services or telehealth services reimbursed under government-funded health programs;

(4) monitoring the type of programs receiving reimbursement under Sections 531.0217 and 531.02171; and

(5) coordinating the activities of state agencies concerned with the use of telemedical consultations and telemedicine medical services or telehealth services.

(b) The advisory committee must include:

(1) representatives of health and human services agencies and other state agencies concerned with the use of telemedical consultations in the Medicaid program and the state child health plan program, including representatives of:

- (A) the commission;
- (B) the Texas Department of Health;
- (C) the Center for Rural Health Initiatives;
- (D) the Telecommunications Infrastructure Fund Board;
- (E) the Texas Department of Insurance;
- (F) the Texas State Board of Medical Examiners;
- (G) the Board of Nurse Examiners; and
- (H) the Texas State Board of Pharmacy;

(2) representatives of health science centers in this state;

(3) experts on telemedicine, telemedical consultation, and telemedicine medical services; and

(4) representatives of consumers of health services provided through telemedical consultations and telemedicine medical services.

(c) A member of the advisory committee serves at the will of the commissioner.

SECTION _____. Section 57.042, Utilities Code, is amended by amending Subdivision (11) and adding Subdivision (12) to read as follows:

(11) "Telehealth service" means a health service, other than a telemedicine medical service, delivered by a licensed or certified health professional acting within the scope of the health professional's license or certification who does not perform a telemedicine medical service that requires the use of advanced telecommunications technology, other than by telephone or facsimile, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise.

(12) "Telemedicine medical service" means a health care service initiated by a physician or provided by a health professional acting under physician delegation and supervision, for purposes of patient assessment by a health professional, diagnosis or consultation by a physician, treatment, or the transfer of medical data, that requires the use of advanced telecommunications technology, other than by telephone or facsimile, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise[:

[(A) means medical services delivered by telecommunications technologies to rural or underserved public not-for-profit health care facilities or primary health care facilities in collaboration with an academic health center and an associated teaching hospital or tertiary center or with another public not-for-profit health care facility; and

[(B) includes consultive services, diagnostic services, interactive video consultation, teleradiology, telepathology, and distance education for working health care professionals].

SECTION _____. Subsections (a) and (b), Section 57.047, Utilities Code, are amended to read as follows:

(a) The board may award a grant to a project or proposal that:

(1) provides equipment and infrastructure necessary for:

(A) distance learning;

(B) an information sharing program of a library; ~~[or]~~

(C) telemedicine medical services; or

(D) telehealth services;

(2) develops and implements the initial or prototypical delivery of a course or other distance learning material;

(3) trains teachers, faculty, librarians, or technicians in the use of distance learning or information sharing materials and equipment;

(4) develops a curriculum or instructional material specially suited for telecommunications delivery;

(5) provides electronic information; or

(6) establishes or carries out an information sharing program.

(b) The board may award a loan to a project or proposal to acquire equipment needed for distance learning and telemedicine medical service projects.

SECTION _____. Subchapter C, Chapter 57, Utilities Code, is amended by adding Section 57.0471 to read as follows:

Sec. 57.0471. GRANTS TO CERTAIN HEALTH CARE FACILITIES. A physician, health care professional, or health care facility providing telemedicine medical services or telehealth services and participating in a pilot program under Section 531.02171, Government Code, is eligible to receive a grant under Section 57.047.

SECTION _____. Subsection (h), Section 531.0217, Government Code, is repealed.

SECTION _____. (a) Not later than December 31, 2001, the commissioner of health and human services shall establish the telemedicine advisory committee as required by Section 531.02172, Government Code, as added by this Act.

(b) Not later than September 1, 2003, the telemedicine advisory committee established under Section 531.02172, Government Code, as added by this Act, shall prepare a report relating to the implementation of the pilot programs established under Section 531.02171, Government Code, as added by this Act, and shall provide the report to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the senate and house of representatives.

SECTION _____. The advisory committee established under Subsection (h), Section 531.0217, Government Code, is abolished on the effective date of this Act.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Chavez offered the following amendment to **SB 1536**:

Amend **SB 1536** (House Committee Printing) following proposed Subsection (b) of Section 531.055, Government Code (page 1, between lines 17 and 18), by inserting the following:

(c) Notwithstanding an eligibility requirement prescribed by any other law or rule, the commission may establish requirements for a person to receive services provided through a pilot project under this section.

(d) Receipt of services provided through a pilot project under this section does not entitle the recipient to other services under a government-funded health program.

(e) The commission may set a maximum enrollment limit for a pilot project established under this section.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Wohlgemuth offered the following amendment to **SB 1536**:

Amend **SB 1536** (House Committee Printing) in Section 531.055(b), Government Code, as added by SECTION 1 of the bill (page 1, line 14), by striking "must" and substituting "may".

Amendment No. 3 was adopted without objection.

SB 1536, as amended, was passed to third reading.

(Speaker in the chair)

CSSB 1783 ON SECOND READING (Wolens, Counts and Hawley - House Sponsors)

CSSB 1783, A bill to be entitled An Act relating to enhanced availability of advanced telecommunications service.

CSSB 1783 was read second time on May 16, amended, and was postponed until this time.

Representative Wolens moved to postpone consideration of **CSSB 1783** until 10 a.m. tomorrow.

The motion prevailed without objection.

HR 1079 - ADOPTED (by Allen)

Representative Allen moved to suspend all necessary rules to take up and consider at this time **HR 1079**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1079, Welcoming the visiting group from Silicon Metrics Corporation to the State Capitol.

HR 1079 was adopted without objection.

MAJOR STATE CALENDAR SENATE BILLS THIRD READING

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

SB 314 ON THIRD READING**(McCall - House Sponsor)**

SB 314, A bill to be entitled An Act relating to the continuation and functions of the Texas Department of Banking and the regulation of certain financial institutions and businesses; providing an administrative penalty.

Amendment No. 1

Representative Allen offered the following amendment to **SB 314**:

Amend **SB 314**, on third reading, as follows:

(1) In Section 712.009, Health and Safety Code, as added by the second reading Allen amendment, in Subsection (d), strike "or a civil penalty under Section 712.0441".

(2) Strike the section of the bill that amends Section 712.0441(a), Health and Safety Code, as added by the second reading Allen amendment (adding a reference to Section 712.009, Health and Safety Code).

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Deshotel offered the following amendment to **SB 314**:

Amend **SB 314**, on third reading, by adding the following appropriately numbered SECTION of the bill and renumbering SECTIONS appropriately:

SECTION _____. Subchapter A, Chapter 4, Business & Commerce Code, is amended by adding Section 4.112 to read as follows:

Sec. 4.112. PAYMENT OF CHECK AT PAR. (a) Except as otherwise provided by Chapter 3 or this chapter, a payor bank shall pay a check drawn on it against an account with a sufficient balance at par without regard to whether the payee holds an account at the bank.

(b) This section does not prohibit a bank from requiring commercially reasonable verification of the payee's identity before settlement of the check.

(c) In addition to any remedy provided by law, the banking commissioner of Texas, in coordination with the Finance Commission of Texas, shall ensure that payor banks comply with the requirements of this section.

Amendment No. 2 was adopted without objection.

SB 314, as amended, was passed.

SB 4 ON THIRD READING**(Brimer, R. Lewis, and Alexander - House Sponsors)**

SB 4, A bill to be entitled An Act relating to the administration and use of the Texas Mobility Fund and the issuance of obligations for financing the construction, reconstruction, acquisition, and expansion of state highways and other mobility projects.

SB 4 was passed.

SB 342 ON THIRD READING
(Alexander - House Sponsor)

SB 342, A bill to be entitled An Act relating to the participation of the Texas Department of Transportation in the acquisition, construction, maintenance, and operation of toll facilities.

Amendment No. 1

Representative Alexander offered the following amendment to **SB 342**:

Amend on third reading, the Second Reading Amendment No. 3 by Alexander on **SB 342** as follows:

(1) strike "Regional Toll Authority" every time it appears in Section 2 of the bill and replace with "Regional Turnpike Authority."

(2) strike "regional toll authority's" every time it appears in Section 2 of the bill and replace with "regional turnpike authority's."

Amendment No. 1 was adopted without objection.

Amendment No. 2

On behalf of Representative Y. Davis, Representative Alexander offered the following amendment to **SB 342**:

Amend **SB 342** on third reading by adding a new section to the bill, appropriately numbered, to read as follows, and renumbering subsequent sections accordingly:

SECTION _____. Section 366.251, Transportation Code, is amended to read as follows:

Sec. 366.251. BOARD OF DIRECTORS. (a) An authority is governed by a board of directors.

(b) For an authority that includes only one county, each county commissioner shall appoint one director to serve on the board and the governor shall appoint one director to serve on the board. For an authority that includes an even number of counties, the [The] commissioners court of each county of the authority shall appoint one director to serve on the board and the[.—The] governor shall appoint one director [three directors] to serve on the board. For an authority that includes an odd number of counties, the commissioners court of each county of the authority shall appoint two directors to serve on the board and the governor shall appoint one director to serve on the board.

(c) ~~[Directors shall be divided into two groups. To the greatest degree possible, each group shall contain an equal number of directors.]~~ Directors shall serve terms of two years, except that ~~[one group of]~~ directors of the initial board of an authority shall serve for a term of one year.

(d) A director [Two directors] appointed by the governor must have resided in a county of the authority for at least one year before the person's appointment. [One director appointed by the governor must have resided in a county adjacent to a county of the authority for at least one year before the person's appointment.] Each director appointed by a commissioners court must have resided in that county for at least one year before the person's appointment.

(e) All appointments to the board shall be made without regard to

disability, sex, religion, age, or national origin. In making appointments under this section, the governor shall attempt to create a board that is representative of the diversity of the authority.

(f) An elected official is not eligible to serve as a director.

(g) A vacancy in a position shall be filled promptly by the entity that made the appointment.

(h) Each director has equal status and may vote.

(i) The board of an authority shall select one director as the presiding officer of the board to serve in that capacity until the person's term as a director expires. The board shall elect one director as assistant presiding officer. The board shall select a secretary and treasurer, neither of whom need be a director.

(j) The vote of a majority attending a board meeting is necessary for any action taken by the board. If a vacancy exists on a board, the majority of directors serving on the board is a quorum.

Amendment No. 2 was adopted without objection.

SB 342, as amended, was passed.

**MAJOR STATE CALENDAR
SENATE BILLS
SECOND READING**

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

**CSSB 317 ON SECOND READING
(McCall - House Sponsor)**

CSSB 317, A bill to be entitled An Act relating to continuation and functions of the Office of Consumer Credit Commissioner and the regulation of certain financial businesses.

Amendment No. 1

Representative S. Turner offered the following amendment to **CSSB 317**:

Amend **SB 317** by adding a new SECTION 24 to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION 24. Insert a new Sec. 342.007, Finance Code to read as follows:

Sec. 342.007. CERTAIN ACTIVITIES PROHIBITED. No person shall transact a loan that is secured, in whole or in part, by a consumer's personal check or other instrument for the payment of money, or in exchange for the consumer's authorization to debit the consumer's deposit account, for any person or any entity, or assist in any way in the origination of any such loan on behalf of or in conjunction with any other person or entity.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Giddings offered the following amendment to **CSSB 317**:

Amend **CSSB 317** as follows:

(1) In the recitation of SECTION 13 of the bill (Committee printing page 11,

line 21) strike "342.007 and 342.008" and substitute "342.007, 342.008, and 342.009".

(2) At the end of SECTION 13 of the bill (Committee printing page 12, between lines 4 and 5) add the following:

Sec. 342.009. RETURN OF PROPERTY IN SALE-LEASEBACK TRANSACTION. The seller in a sale-leaseback agreement may terminate the agreement at any time by returning the property to the buyer in substantially the same condition as when the agreement was entered, less reasonable wear. On return of the property the seller is liable only for rental and other allowed charges under the agreement accruing before the date of the return.

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. 5).

(Junell now present)

CSSB 317 - (consideration continued)

Amendment No. 2 was adopted without objection.

(Gallego in the chair)

Amendment No. 3

Representative Giddings offered the following amendment to **CSSB 317**:

Amend **CSSB 317** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Subchapter F, Chapter 349, Finance Code, is amended by adding Section 349.503 to read as follows:

Sec. 349.503. CERTAIN PROCEEDINGS IN CONNECTION WITH SALE-LEASEBACK TRANSACTION. (a) If a buyer in a sale-leaseback transaction requires the seller to provide a check as security for the transaction, the buyer may not file or threaten to file a charge, complaint, or criminal prosecution under Section 31.03, 31.04, or 32.41, Penal Code, based on nonpayment of the check.

(b) A buyer who violates Subsection (a) commits an offense. An offense under this section is a misdemeanor punishable by a fine of not more than \$1,000.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Hartnett offered the following amendment to **CSSB 317**:

Amend **CSSB 317** by adding the following appropriately numbered SECTIONS to the bill and renumbering SECTIONS appropriately:

SECTION _____. Section 2153.252, Occupations Code, is amended to read as follows:

Sec. 2153.252. AUTHORIZED CREDIT EXTENSIONS. (a) A license holder may extend or lend credit to, or extend or lend credit on behalf of, a lessee or bailee of a music or skill or pleasure coin-operated machine only for a business or commercial purpose in accordance with this subchapter.

(b) A license holder, or an electronic agent of a license holder, may not extend or lend credit to an individual as part of, or in furtherance of, a game that provides a reward for play consisting of items redeemable for money or merchandise. For the purposes of this subsection, the electronic recording of an advance purchase of plays for cash is not an extension or loan of credit.

SECTION _____. Section 2153.254, Occupations Code, is amended to read as follows:

Sec. 2153.254. WRITTEN AGREEMENT REQUIRED. A license holder, or an electronic agent of a license holder, may extend or lend credit only if the credit transaction is evidenced by a written agreement that:

- (1) is signed by the parties to the agreement; and
- (2) specifies the:
 - (A) credit amount;
 - (B) consideration for the credit transaction; and
 - (C) terms governing repayment.

Representative Hilderbran moved to table Amendment No. 4.

A record vote was requested.

The motion to table prevailed by (Record 476): 86 Yeas, 56 Nays, 3 Present, not voting.

Yeas — Alexander; Bailey; Bosse; Brimer; Burnam; Capelo; Carter; Chavez; Clark; Coleman; Cook; Counts; Danburg; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Ellis; Farabee; Farrar; Flores; Garcia; Geren; Giddings; Glaze; Goodman; Gray; Gutierrez; Haggerty; Hawley; Hilderbran; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Jones, E.; Jones, J.; King, T.; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Ritter; Salinas; Solis; Telford; Thompson; Turner, B.; Turner, S.; Uresti; Villarreal; Wilson; Wise; Wolens; Yarbrough; Zbranek.

Nays — Allen; Averitt; Berman; Bonnen; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Corte; Crabb; Craddick; Crownover; Delisi; Denny; Driver; George; Green; Grusendorf; Hamric; Hardcastle; Hartnett; Heflin; Hill; Howard; Hunter; Hupp; Isett; Janek; Junell; Keel; Keffer; King, P.; Krusee; Marchant; McCall; Miller; Morrison; Mowery; Nixon; Pitts; Reyna, E.; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Truitt; Uher; Walker; West; Williams; Wohlgemuth; Woolley.

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

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Sadler; Tillery.

Absent — Goolsby; Jones, D.

STATEMENT OF VOTE

I was shown voting yes on Record No. 476. I intended to vote no.

Kolkhorst

SB 317, as amended, was passed to third reading.

CONSTITUTIONAL AMENDMENTS CALENDAR
SENATE JOINT RESOLUTIONS
SECOND READING

The following resolution was laid before the house and read second time:

SJR 47 ON SECOND READING
(J. Moreno - House Sponsor)

SJR 47, A joint resolution proposing a constitutional amendment to authorize the legislature to exempt from ad valorem taxation raw cocoa and green coffee that is held in Harris County.

A record vote was requested.

SJR 47 was adopted by (Record 477): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Sadler; Tillery.

Absent — Dutton; Uher.

GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING

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

SB 214 ON THIRD READING
(Williams and Keel - House Sponsors)

SB 214, A bill to be entitled An Act relating to the statute of limitations for the presentation of certain felony indictments.

SB 214 was passed.

SB 510 ON THIRD READING**(Walker - House Sponsor)**

SB 510, A bill to be entitled An Act relating to the procurement methods a political subdivision or a related entity may use.

Representative Walker moved to postpone consideration of **SB 510** until 1:00 p.m. tomorrow.

The motion prevailed without objection.

SB 7 ON THIRD READING**(Hinojosa, Thompson, Goodman, Shields, Keel, et al. - House Sponsors)**

SB 7, A bill to be entitled An Act relating to the period during which a person arrested is required to be taken before a magistrate and to the appointment and compensation of counsel to represent indigent persons accused of crime.

Amendment No. 1

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

Amend **SB 7**, in SECTION 2 of the bill, as follows:

(1) In added Article 1.051(i), Code of Criminal Procedure (house committee report, page 2, line 15), between "counsel." and "In", insert "If adversarial judicial proceedings are initiated against the defendant before the expiration of the three working days, the court or the courts' designee shall appoint counsel as provided by Subsection (c)."

(2) In added Article 1.051(i), Code of Criminal Procedure (house committee report, page 2, line 20), immediately after "counsel.", add "If adversarial judicial proceedings are initiated against the defendant before the expiration of the one working day, the court or the courts' designee shall appoint counsel as provided by Subsection (c)."

Amendment No. 1 was adopted without objection.

Amendment No. 2

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

Amend **SB 7**, on third reading, in added Section 71.063, Government Code, as added on second reading by Floor Amendment No. 9 by Hinojosa, by striking "The task force, a member of the task force, or an agent of the task force performing duties on behalf of the task force" and substituting "The task force or a member of the task force".

Amendment No. 2 was adopted without objection.

Amendment No. 3

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

Amend **SB 7**, on third reading, by striking Section 8A, Article 11.071, Code of Criminal Procedure, as added on second reading by Floor Amendment No. 11 by Gallego.

Amendment No. 3 was adopted without objection.

Amendment No. 4

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

Amend **SB 7**, on third reading, in added Article 1.051(j), Code of Criminal Procedure, as added on second reading by Floor Amendment No. 14 by G. Lewis, as amended by Floor Amendment No. 15 by Clark, between "adversarial" and "proceedings", by inserting "judicial".

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative G. Lewis offered the following amendment to **SB 7**:

Amend **SB 7** on third reading as follows:

1. In SECTION 13, in section 71.053, Government Code (House Committee Substitute, Page 30, Line 19), insert a new subsection (a)(5) to read as follows:

(5) One member who is a judge of a constitutional county court or who is a county commissioner of a county with a population of 250,000 or more.

Amendment No. 5 was adopted without objection.

SB 7 — STATEMENT OF LEGISLATIVE INTENT**Amendment No. 12 - (Second Reading)**

REPRESENTATIVE KEEL: Chairman Hinojosa, I would like to ask you questions to establish and clarify the legislative intent of **SB 7** as amended by Amendment No. 12.

The intent of the amendment is to prevent the detention in jail, for more than 24 hours in the case of a misdemeanor, and 48 hours in the case of a felony, persons arrested without a warrant, where no charges have been filed. In other words, if a person is arrested without a warrant, and no charges are filed, they are to be released on bond no later than the expiration of 24 hours in the case of a misdemeanor, and 48 hours in the case of a felony?

REPRESENTATIVE HINOJOSA: Yes.

KEEL: It is not the intent of the amendment, or the bill as amended, that the determination by a magistrate of whether probable cause exists to believe that the person committed the offense should operate as collateral estoppel in any subsequent proceedings?

HINOJOSA: Yes, that is correct.

KEEL: It is not the intent of the amendment that the probable cause determination by the magistrate operate as an ultimate determination of the facts giving rise to the arrest of the person or the ultimate facts of the case?

HINOJOSA: Yes, that is correct.

KEEL: It is not the intent of the amendment that the probable cause determination by the magistrate operate as a bar to any subsequent criminal charges?

HINOJOSA: Yes, that is correct.

KEEL: Mr. Speaker, I would move that the dialogue between Chairman Hinojosa and I be reduced to writing and included in the house journal to establish legislative intent regarding **SB 7**, as amended.

REMARKS ORDERED PRINTED

Representative Keel moved to print remarks by Representative Keel and Representative Hinojosa.

The motion prevailed without objection.

SB 7 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE TALTON: Thank you, Mr. Speaker. Chairman Hinojosa, just so that, we just did a series of amendments based on some of the amendments from yesterday, and I just want to make sure that we have a legislative intent on the word adversarial judicial criminal proceedings. Would you clarify that for us?

REPRESENTATIVE HINOJOSA: Yes. Representative Talton, I think I left the definition with me at my desk. I think you have a copy of it. Why don't you tell me if that's what we're talking about.

TALTON: Yes, if I understand right, what we're talking about, we're not talking about the Code of Criminal Procedure 15.7 hearings that are had. Is that correct?

HINOJOSA: That is correct.

TALTON: And what we're talking about is the formal charges, indictments, misdemeanor compliance, arraignments, and things like that, is that what it is?

HINOJOSA: That is correct.

TALTON: And that series of amendments that we did yesterday and today would clarify that which basically gives most counties the flexibility that they need according to what system they're using, is that correct?

HINOJOSA: That is correct.

REMARKS ORDERED PRINTED

Representative Talton moved to print remarks by Representative Talton and Representative Hinojosa.

The motion prevailed without objection.

SB 7, as amended, was passed.

SB 466 ON THIRD READING
(Eiland - House Sponsor)

SB 466, A bill to be entitled An Act relating to a specialty insurance agent license for persons who sell certain telecommunications equipment.

SB 466 was passed.

SB 328 ON THIRD READING**(Haggerty - House Sponsor)**

SB 328, A bill to be entitled An Act relating to the statute of limitations for purposes of prosecuting certain offenses involving injury to a child, elderly individual, or disabled individual.

SB 328 was passed.

SB 1205 ON THIRD READING**(Hamric - House Sponsor)**

SB 1205, A bill to be entitled An Act relating to the exemption of certain business enterprises and courses of instruction from proprietary school certification.

SB 1205 was passed.

SB 563 ON THIRD READING**(Hinojosa - House Sponsor)**

SB 563, A bill to be entitled An Act relating to the protection of the interest of certain innocent property owners in a criminal asset forfeiture proceeding.

SB 563 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE KEEL: Chairman Hinojosa, it is not the intent of the author to include in Section 1, Article 5903(d), those persons who inform the police that they have no interest in the property?

REPRESENTATIVE HINOJOSA: That's correct.

REMARKS ORDERED PRINTED

Representative Keel moved to print remarks by Representative Keel and Representative Hinojosa.

The motion prevailed without objection.

SB 563 was passed.

SB 935 ON THIRD READING**(Pitts - House Sponsor)**

SB 935, A bill to be entitled An Act relating to engaging in the business of making, negotiating, or transacting certain consumer loans on a financial institution's behalf.

SB 935 was passed.

SB 437 ON THIRD READING**(Allen - House Sponsor)**

SB 437, A bill to be entitled An Act relating to the offense of theft of service.

SB 437 was passed.

SB 697 ON THIRD READING
(Haggerty - House Sponsor)

SB 697, A bill to be entitled An Act relating to the regulation of the practice of professional engineering.

Amendment No. 1

Representative Nixon offered the following amendment to **SB 697**:

Amend **SB 697** on third reading as follows:

(1) In SECTION 3 of the bill (House Committee Printing page 2, lines 24-26) strike proposed Subsection (f), Section 13, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), and substitute the following:

(f) The Board by rule shall adopt a registration fee for a sole proprietorship that is equal to not more than half of the registration fee for other engineering firms.

(2) In SECTION 4 of the bill, in added Subsection (b), Section 16.1, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) (House Committee Printing page 3, line 7), strike "may" and substitute "shall".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Callegari offered the following amendment to **SB 697**:

Amend **SB 697** on third reading as follows:

(1) Strike Amendment No. 4 by Callegari (second reading).

(2) In the section of the bill amending Section 20, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), in the introductory language for that section (house committee printing page 3, line 12), strike "Subsection (h)" and substitute "Subsections (h) and (i)".

(3) After the section of the bill adding proposed Section 20(h), The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) (house committee printing page 4, after line 9), insert the following:

(i) The board shall develop written guidelines, in consultation with representatives of public and private institutions of higher education, consulting engineers, private industry, and the Texas Higher Education Coordinating Board, that describe a distinction between engineering research conducted by faculty at a public or private institution of higher education and other activities conducted by those faculty that constitute engineering consulting or the offering of engineering services to the public. The guidelines developed under this subsection do not affect or apply to research or consulting performed by private industry.

(4) Renumber the sections of the bill appropriately.

Amendment No. 2 was adopted 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. 6).

SB 697 - (consideration continued)

SB 697, as amended, was passed.

**SB 133 ON THIRD READING
(Hinojosa - House Sponsor)**

SB 133, A bill to be entitled An Act relating to the admissibility in a criminal trial of race or ethnicity as a predictor of future criminal behavior.

SB 133 was passed.

**SB 1210 ON THIRD READING
(Dunnam and Goodman - House Sponsors)**

SB 1210, A bill to be entitled An Act relating to certain attorneys and law clerks employed by a court.

A record vote was requested.

SB 1210 was passed by (Record 478): 123 Yeas, 14 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Coleman; Cook; Corte; Counts; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Ritter; Salinas; Seaman; Smith; Smithee; Solis; Solomons; Swinford; Talton; Thompson; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Yarbrough; Zbranek.

Nays — Bonnen; Callegari; Crabb; Denny; Goodman; Hartnett; Heflin; Hill; Howard; Madden; Reyna, E.; Shields; Truitt; Woolley.

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

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Sadler; Tillery.

Absent — Driver; Glaze; Green; Hilderbran; Keel; Telford; Uher.

STATEMENTS OF VOTE

When Record No. 478 was taken, I was in the house but away from my desk. I would have voted no.

Hilderbran

I was shown voting yes on Record No. 478. I intended to vote no.

Hope

SB 233 ON THIRD READING
(Menendez - House Sponsor)

SB 233, A bill to be entitled An Act relating to parental liability for the conduct of a child.

SB 233 was passed.

SB 356 ON THIRD READING
(Hamric - House Sponsor)

SB 356, A bill to be entitled An Act relating to performance measures for innovative regulatory programs implemented by the Texas Natural Resource Conservation Commission.

SB 356 was passed.

SB 516 ON THIRD READING
(Hawley, et al. - House Sponsors)

SB 516, A bill to be entitled An Act relating to creating the rural physician relief program.

Amendment No. 1

Representative Solis offered the following amendment to **SB 516**:

Amend **SB 516** on third reading by adding the following appropriately numbered SECTIONS of the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Subchapter C, Chapter 155, Occupations Code, is amended by adding Section 155.1025 to read as follows:

Sec. 155.1025. EXPEDITED PROCESS FOR CERTAIN APPLICANTS.

(a) The board shall adopt rules for expediting any application for a license under this subtitle made by a person who is licensed to practice medicine in another state or country and who submits an affidavit with the application stating that:

(1) the applicant intends to practice in a rural community, as determined by the Center for Rural Health Initiatives; or

(2) the applicant intends to:

(A) accept employment with an entity located in a medically underserved area or health professional shortage area, designated by the United States Department of Health and Human Services, and affiliated with or participating in a public university-sponsored graduate medical education program;

(B) serve on the faculty of the public university-sponsored graduate medical education program; and

(C) engage in the practice of medicine and teaching in a specialty field of medicine that is necessary to obtain or maintain the accreditation of the public university-sponsored graduate medical education program by the Accreditation Council for Graduate Medical Education.

(b) The board shall notify the Texas Department of Health on receipt of an application for expedited processing under Subsection (a)(2).

SECTION _____. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.947 to read as follows:

Sec. 51.947. IMMIGRATION VISA WAIVERS FOR FACULTY PHYSICIANS. On receipt of an application from a foreign applicant for the expedited processing of a license under Section 155.1025(a)(2), Occupations Code, the Texas Department of Health shall request the United States Department of State to recommend the waiver of 8 U.S.C. Section 1182(e) under exceptions provided by 8 U.S.C. Section 1184(l) for not more than 20 qualified alien physicians each year who agree, beginning not later than the 90th day after the date of approval of the waiver and continuing for at least three years, to:

(1) accept employment with an entity:

(A) located in a medically underserved area or health professional shortage area, as designated by the United States Department of Health and Human Services; and

(B) affiliated with or participating in a public university-sponsored graduate medical education program;

(2) serve on the faculty of the public university-sponsored graduate medical education program;

(3) engage in the practice of medicine and teaching in a specialty field of medicine that is necessary to obtain or maintain the accreditation of the public university-sponsored graduate medical education program by the Accreditation Council for Graduate Medical Education; and

(4) join a medical practice located in a medically underserved area or health professional shortage area, as designated by the United States Department of Health and Human services.

Amendment No. 1 was adopted without objection.

SB 516, as amended, was passed.

SB 518 ON THIRD READING **(Oliveira - House Sponsor)**

SB 518, A bill to be entitled An Act relating to public school counselors.

A record vote was requested.

SB 518 was passed by (Record 479): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall;

McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Sadler; Tillery.

Absent — Bosse; Uher.

SB 1449 ON THIRD READING
(Gutierrez - House Sponsor)

SB 1449, A bill to be entitled An Act relating to the execution of bonds and the sale of loans by the Veterans' Land Board.

SB 1449 was passed.

SB 609 ON THIRD READING
(Ritter - House Sponsor)

SB 609, A bill to be entitled An Act relating to the compensation received by peace officers commissioned by the Department of Public Safety who are required to work on certain holidays.

SB 609 was passed.

SB 620 ON THIRD READING
(J. Davis - House Sponsor)

SB 620, A bill to be entitled An Act relating to extension of restrictions imposing regular assessments in certain residential real estate subdivisions.

SB 620 was passed.

SB 700 ON THIRD READING
(S. Turner - House Sponsor)

SB 700, A bill to be entitled An Act relating to the suspension of a license for failure to comply with the terms of a court order providing for the possession of or access to a child.

SB 700 was passed.

SB 730 ON THIRD READING
(Thompson and Talton - House Sponsors)

SB 730, A bill to be entitled An Act relating to the suspension of sentence and the deferral of adjudication in cases involving certain misdemeanor traffic offenses.

SB 730 was passed.

SB 826 ON THIRD READING
(Grusendorf and Hochberg - House Sponsors)

SB 826, A bill to be entitled An Act relating to the location of public education schools, programs, and classes.

Amendment No. 1

On behalf of Representative P. King, Representative Grusendorf offered the following amendment to **SB 826**:

Amend **SB 826** on third reading, in Floor Amendment No. 2 by King, by striking added Section 29.355, Education Code, and renumbering the subsequent sections accordingly.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives Dunnam and P. King offered the following amendment to **SB 826**:

Amend **SB 826** on third reading by adding the following to Subchapter J, Chapter 29, Education Code, as added by the second reading Phil King amendment:

Sec. 29.358. EXEMPTION. This subchapter does not apply to an open-enrollment charter school.

Amendment No. 2 was adopted without objection.

A record vote was requested.

SB 826, as amended, was passed by (Record 480): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Sadler; Tillery.

Absent — Capelo; Cook; Corte; Flores; Gutierrez; King, P.; Uher; Wilson.

STATEMENTS OF VOTE

When Record No. 480 was taken, I was in the house but away from my desk. I would have voted yes.

Corte

When Record No. 480 was taken, my vote failed to register. I would have voted yes.

Wilson

SB 45 ON THIRD READING (Naishtat - House Sponsor)

SB 45, A bill to be entitled An Act relating to hardship exemptions from time limits under the temporary assistance for needy families program.

SB 45 was passed. (Howard recorded voting no)

SB 484 ON THIRD READING (Pitts - House Sponsor)

SB 484, A bill to be entitled An Act relating to the review of plans and specifications and the inspection of buildings or facilities for the purpose of eliminating architectural barriers encountered by persons with disabilities.

A record vote was requested.

SB 484 was passed by (Record 481): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbraneck.

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

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Sadler; Tillery.

Absent — Garcia; Howard; Jones, J.; Uher; Wilson; Wise.

STATEMENT OF VOTE

When Record No. 481 was taken, my vote failed to register. I would have voted yes.

Wilson

SB 352 ON THIRD READING (Gray and Oliveira - House Sponsors)

SB 352, A bill to be entitled An Act relating to the collection of solid waste disposal service fees by a county or by certain public or private entities contracting with a county.

SB 352 was passed.

SB 367 ON THIRD READING (Naishtat - House Sponsor)

SB 367, A bill to be entitled An Act relating to ensuring an appropriate care setting for a person with a disability.

Amendment No. 1

Representative Crownover offered the following amendment to **SB 367**:

Amend **SB 367** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.048 to read as follows:

Sec. 533.048. GUARDIANSHIP ADVISORY COMMITTEE. (a) In this section, "institution" means:

(1) an ICF-MR; or

(2) a state hospital, state school, or state center maintained and managed by the department.

(b) The commissioner shall appoint a guardianship advisory committee composed of nine members, five of whom must be parents of residents of institutions.

(c) The commissioner shall designate a member of the advisory committee to serve as presiding officer. The members of the advisory committee shall elect any other necessary officers.

(d) The advisory committee shall meet at the call of the presiding officer.

(e) A member of the advisory committee serves at the will of the commissioner.

(f) A member of the advisory committee may not receive compensation for serving on the advisory committee but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the advisory committee as provided by the General Appropriations Act.

(g) The advisory committee shall develop a plan and make specific recommendations to the department regarding methods to facilitate the

appointment of relatives of residents of institutions as guardians of those residents to make decisions regarding appropriate care settings for the residents.

Amendment No. 2

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

Amend the Crossover amendment to **SB 367** on third reading by adding the following appropriately numbered item to the amendment:

(__) In SECTION 1 of the bill, following proposed Section 531.0244(e), Government Code (House committee report page 3, between lines 20 and 21), insert the following subsection and reletter subsequent subsections appropriately:

(f) This section does not create a cause of action.

Amendment No. 2 was adopted without objection.

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

SB 367, as amended, was passed.

SB 1446 ON THIRD READING
(Oliveira - House Sponsor)

SB 1446, A bill to be entitled An Act relating to severance payments to superintendents of independent school districts.

SB 1446 was passed.

SB 616 ON THIRD READING
(Capelo - House Sponsor)

SB 616, A bill to be entitled An Act relating to the establishment of a medical assistance pilot program for the management of children's asthma.

Amendment No. 1

Representative Capelo offered the following amendment to **SB 616**:

Amend **SB 616** on third reading page 2, line 13, Subchapter B, Chapter 531, Government Code, new Sec. 531.021912, by adding a new subsection (e) and renumbering accordingly.

The new subsection (e) shall read as follows:

(e) The commission may write the report under Subsection (d) in conjunction with an academic medical center or a nonprofit organization with experience in clinically focused, simulation-based disease management analysis.

Amendment No. 1 was adopted without objection.

SB 616, as amended, was passed.

GENERAL STATE CALENDAR
SENATE BILLS
SECOND READING

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

SB 1467 ON SECOND READING
(Rangel - House Sponsor)

SB 1467, A bill to be entitled An Act relating to coverage for tests for the detection of colorectal cancer under certain health benefit plans.

Amendment No. 1

Representative Rangel offered the following amendment to **SB 1467**:

Amend **SB 1467** (house committee printing) in SECTION 1 of the bill as follows:

(1) In Subsection (a), Section 2, Article 21.53S, Insurance Code, as added by the bill:

(A) After Subparagraph (iii), Paragraph (A) (page 1, between lines 24 and 25), insert the following:

(iv) a Lloyd's plan operating under Chapter 18 of this code;

(B) Insert "or" after the semicolon on page 2, line 16.

(C) Strike Subdivision (3) (page 2, lines 17-21).

(D) Renumber existing subparagraphs and subdivisions of the subsection appropriately.

(2) In Subdivision (2), Subsection (b), Section 2, Article 21.53S, Insurance Code, as added by the bill, between "a" and "plan" (page 3, line 10), insert "small employer".

(3) In Subsection (a), Section 3, Article 21.53S, Insurance Code, as added by the bill:

(A) Strike "diagnostic" in each place the word appears in that subsection and substitute "screening" (page 3, line 24, and page 4, line 1).

(B) Between "older" and "for" (page 3, line 26), insert "and at normal risk for developing colon cancer".

(4) Strike Subsection (b), Section 3, Article 21.53S, Insurance Code, as added by the bill (page 4, lines 3 through 8), and substitute the following:

(b) The minimum benefits provided under Subsection (a) of this section must:

(1) include:

(A) a fecal occult blood test performed annually; and

(B) a flexible sigmoidoscopy performed every five years; or

(2) include a colonoscopy performed every 10 years.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives Thompson, Olivo, Smithee, Eiland, G. Lewis, Burnam, Seaman, Averitt, and J. Moreno offered the following amendment to **SB 1467**:

Amend **SB 1467** (house committee report) as follows:

(1) In Article 21.53S, Insurance Code, as added by the bill, add a new Section 1 to read as follows:

Sec. 1. SHORT TITLE. This article may be cited as the Irma Rangel Colorectal Cancer Detection Act.

(2) Renumber existing sections and internal cross-references in Article 21.53S, Insurance Code, appropriately.

Amendment No. 2 was withdrawn.

SB 1467, as amended, was passed to third reading. (Corte recorded voting no)

SB 1797 ON SECOND READING
(Goolsby - House Sponsor)

SB 1797, A bill to be entitled An Act relating to an exemption from the licensure provisions of The Texas Engineering Practice Act for certain research or instructional work.

Amendment No. 1

Representative Goolsby offered the following amendment to **SB 1797**:

Amend **SB 1797** by adding the following sections, appropriately numbered, and renumbering the sections of the bill accordingly:

SECTION 2. Section 2(4), The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), is amended to read as follows:

(4) "Practice of engineering," or "practice of professional engineering" shall mean any service or creative work, either public or private, the adequate performance of which requires engineering education, training and experience in the application of special knowledge or judgment of the mathematical, physical, or engineering sciences to such services or creative work.

To the extent the following services or types of creative work meet this definition, the term includes consultation, investigation, evaluation, analysis, planning, engineering for program management, providing an expert engineering opinion or testimony, engineering for testing or evaluating materials for construction and other engineering uses, and mapping; design, conceptual design, or conceptual design coordination of engineering works and systems; development or optimization of plans and specifications for engineering works and systems; planning the use or alteration of land and water or the design or analysis of works or systems for the use or alteration of land and water; ~~[teaching advanced engineering subjects;]~~ performing engineering surveys and studies; engineering for construction, alteration, or repair of real property; engineering for preparation of operating and maintenance manuals; and engineering for review of the construction or installation of engineered works to monitor compliance with drawings and specifications.

The activities included in the practice of engineering include services, designs, analyses, or other work performed for a public or private entity in connection with utilities, structures, buildings, machines, equipment, processes, systems, works, projects, and industrial or consumer products or equipment of a mechanical, electrical, electronic, chemical, hydraulic, pneumatic, geotechnical, or thermal nature and include other professional services necessary for the planning, progress, and completion of any engineering service.

In this subdivision:

(A) "Design coordination" includes the review and coordination of technical submissions prepared by others, including the work of other professionals working with or under the direction of an engineer with due professional regard for the abilities of all professional parties involved in a multidisciplinary effort.

(B) "Engineering surveys" includes all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of an engineered project, but does not include the surveying of real property and other activities regulated under the Professional Land Surveying Practices Act (Article 5282c, Vernon's Texas Civil Statutes).

SECTION _____. Section 12(c), The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) In considering the qualifications of applicants, ~~[responsible charge of]~~ engineering teaching may not be construed as active practice in ~~[responsible charge of]~~ engineering work. The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as foreman or superintendent shall not be deemed to be active practice in engineering work.

SECTION _____. The change in law made by this Act to Section 12(c), The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), applies only to a person who begins the teaching of engineering on or after September 1, 2001. A person who has engaged in the teaching of engineering before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

Amendment No. 1 was adopted without objection.

SB 1797, as amended, was passed to third reading.

SB 1268 ON SECOND READING **(Wise - House Sponsor)**

SB 1268, A bill to be entitled An Act relating to a surety bond obtained for a public project and executed by a surety company.

Amendment No. 1 (Committee Amendment No. 1)

Representative Longoria offered the following committee amendment to **SB 1268**:

Amend **SB 1268** by striking SECTION 2 of the bill (Engrossed version, page 1, lines 18-23) and substituting the following:

SECTION 2. Section 2253.021, Government Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) A governmental entity may not require a contractor for any public building or other construction contract to obtain a surety bond from any specific insurance or surety company, agent, or broker.

(g) For the purposes of this section, the General Services Commission shall negotiate with a specific insurance or surety company, agent, or broker to establish a surety program for the benefit of small businesses and historically underutilized businesses.

Amendment No. 2

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

Amend the committee amendment to **SB 1268** by striking the text of the

amendment (house committee report, page 3, lines 2-15) and substituting the following:

Amend **SB 1268** as follows:

(1) In SECTION 1 of the bill, in amended Section 2166.1258(b), Government Code (house committee report, page 1, line 15), strike "any other [the bonding or]" and substitute "the bonding or".

(2) Strike SECTION 2 of the bill (Engrossed version, page 1, lines 18-23) and substitute the following:

SECTION 2. Section 2253.021, Government Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) A governmental entity may not require a contractor for any public building or other construction contract to obtain a surety bond from any specific insurance or surety company, agent, or broker.

(g) For the purposes of this section, the General Services Commission shall establish a program to provide surety technical assistance services for the benefit of small businesses and historically underutilized businesses. The commission may contract with insurance companies, surety companies, agents, or brokers to implement this program.

Amendment No. 2 was adopted without objection.

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

SB 1268, as amended, was passed to third reading.

SB 189 ON SECOND READING
(Dutton - House Sponsor)

SB 189, A bill to be entitled An Act relating to the authority of a juvenile justice alternative education program to obtain a waiver regarding required days of operation.

Representative Dutton moved to postpone consideration of **SB 189** until 6 p.m. today.

The motion prevailed without objection.

SB 1574 ON SECOND READING
(J. Moreno - House Sponsor)

SB 1574, A bill to be entitled An Act relating to an exemption from ad valorem taxation of raw cocoa and green coffee that is held in Harris County.

SB 1574 was passed to third reading.

SB 961 ON SECOND READING
(G. Lewis - House Sponsor)

SB 961, A bill to be entitled An Act relating to salary supplements by a county or a municipality for child and adult protective services workers.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Chisum, Representative G. Lewis offered the following committee amendment to **SB 961**:

SB 961 is amended by adding the following language at the end of Section 1 of the bill:

(d) The department shall not require a salary supplement as a condition for creating or maintaining a position in the region.

SB 961 is amended by adding the following language at the end of Section 1 of the bill:

(d) The department shall not require a salary supplement as a condition for creating or maintaining a position in the region.

Amendment No. 1 was adopted without objection.

SB 961, as amended, was passed to third reading. (Clark, Corte, and Shields recorded voting no)

SB 1047 ON SECOND READING **(McCall - House Sponsor)**

SB 1047, A bill to be entitled An Act relating to the expunction or clarification of certain criminal history record information.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Hinojosa, Representative McCall offered the following committee amendment to **SB 1047**:

Amend **SB 1047** in SECTION 2 of the bill, in amended Section 2, Article 55.02, Code of Criminal Procedure (Senate Engrossment page 3, lines 16-26, and page 4, lines 1 and 2), by striking Subsection (e) and substituting a new Subsection (e) to read as follows:

(e) In addition to the information required by Subsection (b), if the petitioner relies on an entitlement to expunction under Article 55.01(d), the verified petition must include authenticated fingerprint records of the petitioner and must include the following or a statement explaining the reason the following is not included:

(1) the full name of the person arrested; and

(2) a statement that:

(A) the petitioner is not the person arrested and for whom the arrest records and files were created; and

(B) the petitioner did not give the person arrested consent to falsely identify himself or herself as the petitioner.

Amendment No. 1 was adopted without objection.

SB 1047, as amended, was passed to third reading.

CSSB 779 ON SECOND READING **(Walker - House Sponsor)**

CSSB 779, A bill to be entitled An Act relating to the creation of an agricultural lien.

CSSB 779 was passed to third reading.

SB 350 ON SECOND READING **(Oliveira - House Sponsor)**

SB 350, A bill to be entitled An Act relating to wage rates paid by or on behalf of certain school districts on public works projects.

Amendment No. 1

Representatives Grusendorf and Oliveira offered the following amendment to **SB 350**:

Amend **SB 350** in SECTION 1 of the bill (House committee report, page 2, lines 17-19), by striking proposed Section 44.043(f), Education Code, and substituting the following:

(f) A school district that requires a wage rate under this section shall specify in the call for bids for the contract and in the contract itself the wage rates required by the district.

Amendment No. 1 was adopted without objection.

SB 350, as amended, was passed to third reading. (Clark, Corte, Goolsby, Heflin, Howard, Hupp, Isett, E. Jones, Kolkhorst, Marchant, Morrison, Seaman, Shields, and Williams recorded voting no)

CSSB 391 ON SECOND READING
(Gutierrez - House Sponsor)

CSSB 391, A bill to be entitled An Act relating to the automation of the compulsory motor vehicle inspection system.

Amendment No. 1

Representative Gutierrez offered the following amendment to **CSSB 391**:

Amend **CSSB 391**, in SECTION 2 of the bill, on page 4, at the end of added Section 548.508(c), Transportation Code, add the following:

(d) On the 6th anniversary of the date the department implements the automated inspection system, if the department is imposing a fee of more than 75 cents under Subsection (a), the department shall reduce the amount of that fee to 75 cents.

Amendment No. 1 was adopted without objection.

A record vote was requested.

CSSB 391, as amended, failed to pass to third reading by (Record 482): 60 Yeas, 78 Nays, 2 Present, not voting.

Yeas — Allen; Bailey; Bosse; Burnam; Capelo; Coleman; Cook; Counts; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Flores; Garcia; Giddings; Goolsby; Gray; Gutierrez; Hardcastle; Hartnett; Hinojosa; Hodge; Janek; Jones, J.; Kitchen; Lewis, G.; Longoria; Luna; Martinez Fischer; Maxey; McReynolds; Menendez; Moreno, J.; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Puente; Rangel; Raymond; Reyna, A.; Salinas; Solis; Thompson; Turner, B.; Turner, S.; Uresti; Villarreal; Wilson; Wise; Wolens; Yarbrough; Zbranek.

Nays — Averitt; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chavez; Chisum; Christian; Clark; Corte; Crabb; Craddick; Crownover; Davis, J.; Delisi; Denny; Driver; Eiland; Elkins; Ellis; Farabee; George; Geren; Glaze; Goodman; Green; Grusendorf; Haggerty; Hamric; Hawley; Heflin; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett;

Jones, E.; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall; McClendon; Merritt; Miller; Morrison; Mowery; Nixon; Pitts; Ramsay; Reyna, E.; Ritter; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Truitt; Uher; Walker; West; Williams; Wohlgemuth; Woolley.

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

Absent, Excused — Hilbert.

Absent, Excused, Committee Meeting — Sadler; Tillery.

Absent — Alexander; Hochberg; Jones, D.; Junell; Kolkhorst; Moreno, P.; Telford.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 482. I intended to vote no.

Allen

When Record No. 482 was taken, my vote failed to register. I would have voted no.

Kolkhorst

I was shown voting yes on Record No. 482. I intended to vote no.

Wilson

SB 430 ON SECOND READING (Goodman - House Sponsor)

SB 430, A bill to be entitled An Act relating to creation of the Texas School Safety Center.

Amendment No. 1

Representative Najera offered the following amendment to **SB 430**:

Amend **SB 430** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Chapter 1701, Occupations Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. VISITING RESOURCE OFFICER IN PUBLIC SCHOOL

Sec. 1701.601. DEFINITION. In this subchapter, "school resource officer" means a peace officer who is assigned by the officer's employing political subdivision to provide:

- (1) a police presence at a public school;
- (2) safety or drug education to students of a public school; or
- (3) other similar services.

Sec. 1701.602. LICENSE REQUIRED. A peace officer who is a visiting school resource officer in a public school must be licensed as provided by this chapter.

Sec. 1701.603. FIREARMS ACCIDENT PREVENTION PROGRAM. (a) A peace officer who is a visiting school resource officer in a public

elementary school shall at least once each school year offer to provide instruction to students in a firearms accident prevention program, as determined by the school district.

(b) A firearms accident prevention program must include the safety message, "Stop! Don't Touch. Leave the Area. Tell an Adult.", and may include instructional materials from the National Rifle Association Eddie Eagle GunSafe Program, including animated videos and activity books.

(b) Sections 1701.602 and 1701.603, Occupations Code, as added by this SECTION, apply beginning with the 2001-2002 school year.

Amendment No. 1 was adopted without objection.

SB 430, as amended, was passed to third reading. (Corte, Heflin, Howard, and Shields recorded voting no)

SB 1590 ON SECOND READING
(Naishtat - House Sponsor)

SB 1590, A bill to be entitled An Act relating to the admissibility of evidence relating to certain Texas Department of Human Services investigations or surveys in certain actions or proceedings.

Representative Naishtat moved to postpone consideration of **SB 1590** until 2 p.m. Monday, May 21.

The motion prevailed without objection.

SB 515 ON SECOND READING
(Truitt - House Sponsor)

SB 515, A bill to be entitled An Act relating to the establishment of an adult fatality review team and to the reporting and investigation of certain adult deaths; providing a penalty.

Representative Truitt moved to postpone consideration of **SB 515** until 10 a.m. tomorrow.

The motion prevailed without objection.

CSSB 536 ON SECOND READING
(Dutton and Clark - House Sponsors)

CSSB 536, A bill to be entitled An Act relating to compensation to persons wrongfully imprisoned.

(Speaker in the chair)

Amendment No. 1

Representative Hope offered the following amendment to **CSSB 536**:

Amend **CSSB 536** in SECTION 1 of the bill, at the end of proposed Section 103.003, Civil Practice and Remedies Code (Committee Printing, page 3, between lines 8 and 9), by adding Subsection (d) to read as follows:

(d) Compensation payments to a person under Subsection (a) or (b) terminate on the date of the person's death. Any payments scheduled to be paid after that date are credited to the state and may not be paid to any other person, including the person's surviving spouse, heirs, devisees, or beneficiaries under the person's will, or to the person's estate.

Amendment No. 1 was adopted without objection.

CSSB 536, as amended, was passed to third reading. (Corte 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. 7).

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 57).

SB 538 ON SECOND READING (Oliveira - House Sponsor)

SB 538, A bill to be entitled An Act relating to a study of duties performed by public school counselors.

Amendment No. 1 (Committee Amendment No. 1)

Representative Oliveira offered the following committee amendment to **SB 538**:

Amend **SB 538** as follows:
on page 2, line 1, strike, [~~institutions of higher~~], and insert career awareness and postsecondary

Amendment No. 1 was adopted without objection.

SB 538, as amended, was passed to third reading.

SB 545 ON SECOND READING (R. Lewis - House Sponsor)

SB 545, A bill to be entitled An Act relating to the venue for a suit to recover damages to a road or highway caused by operating an overweight vehicle and transporting oversize or overweight commodities.

SB 545 was passed to third reading.

SB 554 ON SECOND READING (Solis, Uresti, Capelo, and Chavez - House Sponsors)

SB 554, A bill to be entitled An Act relating to grants by the Texas Workforce Commission to assist economically disadvantaged persons enrolled in qualified postsecondary career education programs.

SB 554 was passed to third reading.

SB 643 ON SECOND READING (Gray - House Sponsor)

SB 643, A bill to be entitled An Act relating to the practice of acupuncture.

Amendment No. 1 (Committee Amendment No. 1)

Representative Gray offered the following committee amendment to **SB 643**:

Amend **SB 643** on page 3, line 26 by striking "4" and substituting "15."

Amendment No. 1 was adopted without objection.

SB 643, as amended, was passed to third reading. (Corte recorded voting no)

SB 654 ON SECOND READING
(Hope and Allen - House Sponsors)

SB 654, A bill to be entitled An Act relating to certain licensing information required for registration as a sex offender.

Amendment No. 1

Representative Salinas offered the following amendment to **SB 654**:

Amend **SB 654** as follows:

(1) In SECTION 1 of the bill, in amended Subsection (b), Article 62.02, Code of Criminal Procedure (house committee report, page 1, line 15), strike "a photograph of the person" and substitute "a recent color photograph or, if possible, electronic digital image of the person".

(2) Strike SECTION 3 of the bill (house committee report, page 3, lines 7-19) and substitute the following:

SECTION 3. The requirements under Subsection (b), Article 62.02, Code of Criminal Procedure, as amended by this Act, regarding the offender's photograph or digital image registration form for an offender who first registers on or after the effective date of this Act, the requirements apply to the registration form as modified when the offender first verifies registration on or after the effective date. Regardless of the date of a sex offender's initial registration, all registration forms modified on verification of registration on or after the effective date of this Act must contain the offender's photograph or digital image and licensing information as required by Subsection (b), Article 62.02, Code of Criminal Procedure, as amended by this Act.

Amendment No. 1 was adopted without objection.

SB 654, as amended, was passed to third reading.

SB 731 ON SECOND READING
(Bosse - House Sponsor)

SB 731, A bill to be entitled An Act relating to the liability of an officer of a nonprofit corporation.

SB 731 was passed to third reading.

SB 766 ON SECOND READING
(Uresti - House Sponsor)

SB 766, A bill to be entitled An Act relating to the processing and sale of meat and poultry products; providing penalties.

Amendment No. 1 (Committee Amendment No. 1)

Representative Uresti offered the following committee amendment to **SB 766**:

Amend **SB 766** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION __. Subchapter B, Chapter 433, Health and Safety Code, is amended by adding Section 433.0245 to read as follows:

Sec. 433.0245. REQUIREMENTS FOR CERTAIN LOW-VOLUME LIVESTOCK PROCESSING ESTABLISHMENTS. (a) Except as provided by this section, the inspection and regulatory provisions of this chapter do not apply to a low-volume livestock processing establishment that is exempt from federal inspection.

(b) A low-volume livestock processing establishment that is exempt from federal inspection shall register with the department in accordance with rules adopted by the commissioner for registration.

(c) A low-volume livestock processing establishment that is exempt from federal inspection shall develop a sanitary operation procedures plan.

(d) If contaminated livestock can be reasonably traced to a low-volume livestock processing establishment that is exempt from federal inspection, the commissioner may request the attorney general or the district or county attorney in the jurisdiction where the facility is located to institute a civil suit to enjoin the operation of the establishment until the commissioner determines that the establishment has been sanitized and is operating safely.

Amendment No. 1 was adopted without objection.

SB 766, as amended, was passed to third reading.

CSSB 776 ON SECOND READING (Goodman - House Sponsor)

CSSB 776, A bill to be entitled An Act relating to the accrual of interest on child support.

Amendment No. 1

Representative Goodman offered the following amendment to **CSSB 776**:

Amend **CSSB 776** by striking SECTION 2 of the bill (House committee printing page 1, line 21, through page 2, line 3) and substituting the following:

SECTION 2. The change in law made by Section 157.265, Family Code, as amended by this Act, applies only to a child support payment that becomes due or money judgment for child support that is rendered on or after the effective date of this Act. A child support payment that became due or a money judgment for child support that was rendered before the effective date of this Act is governed by the law in effect on the date the child support payment became due or the money judgment was rendered, and the former law is continued in effect for that purpose.

Amendment No. 1 was adopted without objection.

SB 776, as amended, was passed to third reading.

SB 925 ON SECOND READING (J. Moreno - House Sponsor)

SB 925, A bill to be entitled An Act relating to the procurement powers of certain navigation districts and port authorities.

SB 925 was passed to third reading.

SB 965 ON SECOND READING
(Eiland - House Sponsor)

SB 965, A bill to be entitled An Act relating to sale of wine by the holder of a winery permit.

Amendment No. 1

Representative Hilderbran offered the following amendment to **SB 965**:

Amend **SB 965** (House committee report) in SECTION 1 of the bill as follows:

(1) In Subsection (d), Section 16.01, Alcoholic Beverage Code, as amended by the bill (page 1, line 14), strike "or".

(2) In Subsection (d), Section 16.01, Alcoholic Beverage Code, as amended by the bill, between "international airport" and the period (page 1, line 20), insert the following:

"; or

(3) in a county that:

(A) has a population of 20,000 or more; and

(B) has within its boundaries all or part of three or more American viticultural areas, as recognized and defined by the United States Bureau of Alcohol, Tobacco and Firearms".

Amendment No. 1 was adopted without objection.

SB 965, as amended, was passed to third reading.

SB 439 ON SECOND READING
(Uresti and Capelo - House Sponsors)

SB 439, A bill to be entitled An Act relating to the match requirement for the receipt of state funds by certain organizations providing chemical dependency treatment services.

SB 439 was passed to third reading.

SB 888 ON SECOND READING
(Alexander - House Sponsor)

SB 888, A bill to be entitled An Act relating to enforcement of motor vehicle weight restrictions.

SB 888 was passed to third reading.

SB 889 ON SECOND READING
(Alexander - House Sponsor)

SB 889, A bill to be entitled An Act relating to the operation of certain overweight vehicles on a highway; providing penalties.

Amendment No. 1

Representative Alexander offered the following amendment to **SB 889**:

Amend **SB 889** by adding the following new SECTIONS to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter B, Chapter 622, Transportation Code, is amended by adding Section 622.018 to read as follows:

Sec. 622.018. DEFENSE TO PROSECUTION: BOND IN EFFECT. (a) It is a defense to prosecution under Section 622.017 that the person charged produces a surety bond that complies with Section 622.013 that was valid at the time the offense is alleged to have occurred.

(b) If the court verifies the bond produced by the person, the court shall dismiss the charge.

SECTION _____. Subchapter J, Chapter 622, Transportation Code, is amended by adding Section 622.137 to read as follows:

Sec. 622.137. DEFENSE TO PROSECUTION: BOND IN EFFECT. (a) It is a defense to prosecution under Section 622.136 that the person charged produces a surety bond that complies with Section 622.134 that was valid at the time the offense is alleged to have occurred.

(b) If the court verifies the bond produced by the person, the court shall dismiss the charge.

SECTION _____. Subchapter H, Chapter 623, Transportation Code, is amended by adding Section 623.166 to read as follows:

Sec. 623.166. DEFENSE TO PROSECUTION: BOND IN EFFECT. (a) It is a defense to prosecution under Section 623.165 that the person charged produces a surety bond that complies with Section 623.163 that was valid at the time the offense is alleged to have occurred.

(b) If the court verifies the bond produced by the person, the court shall dismiss the charge.

Amendment No. 1 was adopted without objection.

SB 889, as amended, was passed to third reading.

POSTPONED BUSINESS

The following bill was laid before the house as postponed business:

SB 189 ON SECOND READING (Dutton - House Sponsor)

SB 189, A bill to be entitled An Act relating to the authority of a juvenile justice alternative education program to obtain a waiver regarding required days of operation.

SB 189 was read second time earlier today and was postponed until this time.

SB 189 was passed to third reading.

HCR 293 - ADOPTED (by Goolsby)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HCR 293**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 293, Congratulating Stephen Arthur and Eugenia Marie Gonzalez of Pflugerville on the birth of their son, Christian Alexander Gonzalez.

HCR 293 was adopted without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

State, Federal, and International Relations, upon adjournment today, Desk 47, for a formal meeting, to consider **SCR 54** and **SCR 63**.

Civil Practices, upon adjournment today, Desk 112, for a formal meeting, to consider pending business.

Judicial Affairs, upon adjournment today, Desk 67, for a formal meeting, to consider **SB 720**.

Higher Education, upon adjournment today, Desk 118, for a formal meeting, to consider **SB 903** and **SB 1840**.

Public Education, upon adjournment today, Desk 102, for a formal meeting.

STATEMENT OF VOTE

When Record No. 300 was taken, my vote failed to register. I would have voted no.

Keel

ADJOURNMENT

Representative Flores moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed without objection.

The house accordingly, at 5:55 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HCR 289 (By Ellis), Honoring Marshall Herklotz of Huntsville on his retirement from the Texas Department of Criminal Justice.

To Rules & Resolutions.

HCR 290 (By Dunnam), Honoring the memory of Richard Dale Cottle of Woodway.

To Rules & Resolutions.

HCR 292 (By Garcia), Declaring June 2001 to be “Falun Dafa Awareness Month” in Texas.

To Rules & Resolutions.

HR 998 (By Pitts), Congratulating Sylvia Smith of Red Oak on winning the Texas Historical Commission's John Ben Shepperd Leadership Award.

To Rules & Resolutions.

HR 1082 (By R. Lewis), Honoring Maxine Odom Smith of Orange on her retirement from the Orange Community Action Association.

To Rules & Resolutions.

HR 1083 (By Hodge), Honoring Julian Harrison of Dallas for his service as an honorary page.

To Rules & Resolutions.

HR 1084 (By Hodge), Honoring Corrian Williams of Dallas for her service as an honorary page.

To Rules & Resolutions.

HR 1085 (By Ellis), Honoring Laura Thresher Johnston on her graduation from Sam Houston State University.

To Rules & Resolutions.

HR 1086 (By Ellis), In memory of Stan Saucier of Huntsville.

To Rules & Resolutions.

HR 1087 (By Krusee), Honoring the members of Cedar Park High School's Destination ImagiNation team for their achievements.

To Rules & Resolutions.

HR 1088 (By Krusee), Honoring the CAYSA Rattler Rumble '89 girls soccer team on becoming state champions of the 2001 South Texas Cup.

To Rules & Resolutions.

HR 1089 (By Wise), Honoring Walter Anthony Lukaszek of Donna on his retirement from the Texas Department of Protective and Regulatory Services.

To Rules & Resolutions.

HR 1090 (By Christian), Recognizing 2001 as the International Year of Volunteers.

To Rules & Resolutions.

HR 1094 (By Chavez), Congratulating Salvador H. Sanchez Middle School for being honored for innovations in science education by the El Paso Collaborative for Academic Excellence and the National Science Foundation.

To Rules & Resolutions.

HR 1095 (By Chavez), Congratulating Del Valle High School for being honored for innovations in science education by the El Paso Collaborative for Academic Excellence and the National Science Foundation.

To Rules & Resolutions.

HR 1096 (By Chavez), Congratulating Hacienda Heights Elementary School for being honored for innovations in science education by the El Paso Collaborative for Academic Excellence and the National Science Foundation.

To Rules & Resolutions.

HR 1097 (By Chavez), Congratulating Bassett Middle School for being honored for innovations in science education by the El Paso Collaborative for Academic Excellence and the National Science Foundation.

To Rules & Resolutions.

HR 1098 (By Chavez), Congratulating Lamar Elementary School for being honored for innovations in science education by the El Paso Collaborative for Academic Excellence and the National Science Foundation.

To Rules & Resolutions.

HR 1099 (By Chavez), Congratulating Robert R. Rojas Elementary School for being honored for innovations in science education by the El Paso Collaborative for Academic Excellence and the National Science Foundation.

To Rules & Resolutions.

HR 1100 (By Chavez), Congratulating Jan “Juanita” Engles on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1101 (By Chavez), Congratulating Marie “Pee Wee” Mier on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1102 (By Chavez), Congratulating Soledad “Chole” Galvan on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1103 (By Chavez), Congratulating Delia Briones on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1104 (By Chavez), Congratulating Ceci Carpio on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1105 (By Chavez), Congratulating Mary Bowles-Grijalva on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1106 (By Chavez), Congratulating Luis Mata on the occasion of his induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1107 (By Chavez), Congratulating Jose “Joe” R. Parra on the occasion of his induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1108 (By Chavez), Congratulating Esther V.Perez on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1109 (By Chavez), Congratulating the Honorable Charles R.Schulte on the occasion of his induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1110 (By Chavez), Congratulating Susan Kathryn Sheldon on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1111 (By Chavez), Congratulating Lupe Weaver on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1112 (By Chavez), Congratulating George Ybarra on the occasion of his induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1113 (By Chavez), Congratulating Dorline Wonciar on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1114 (By Chavez), Congratulating Irma S.Sanchez on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1115 (By Chavez), Congratulating Ramy Martinez on the occasion of his induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1116 (By Chavez), Congratulating Delia Camacho on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1117 (By Chavez), Congratulating Daniel Anchondo on the occasion of his induction into the 2001 El Paso County Democratic Hall of Fame.

To Rules & Resolutions.

HR 1118 (By Chavez), Commending the El Paso Fire Department on its actions on May 9, 2001.

To Rules & Resolutions.

SB 378 to Urban Affairs.

SB 903 to Higher Education.

SB 1152 to Public Health.

SB 1511 to Transportation.

SB 1732 to Economic Development.

SB 1840 to Higher Education.

SCR 48 to Civil Practices.

SCR 53 to House Administration.

SCR 54 to State, Federal & International Relations.

SCR 63 to State, Federal & International Relations.

SIGNED BY THE SPEAKER

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

House List No. 57

HB 1506, HB 1837, HCR 291

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, May 17, 2001 - 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 969 Oliveira SPONSOR: Lucio
Relating to local governments that may consider the location of a bidder's principal place of business in awarding contracts.

HB 1006 Naishtat SPONSOR: Zaffirini
Relating to exemptions and exceptions from work or employment activity requirements under the temporary assistance for needy families program.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1099 Chisum SPONSOR: Carona
Relating to regulation of radioactive materials and other sources of radiation.

HB 1258 Gallego SPONSOR: Madla
Relating to the ratification of the creation of and to the administration, powers, duties, operation, and financing of the Middle Pecos Groundwater Conservation District.
(AMENDED)

HB 1333 Junell SPONSOR: Ellis, Rodney
Relating to making emergency appropriations.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1887 Janek SPONSOR: Carona
Relating to the rights of patients receiving mental health services.
(AMENDED)

HB 1913 Capelo SPONSOR: Shapleigh
Relating to termination of certain contracts by a preferred provider organization or health maintenance organization.
(AMENDED)

HB 1922 McCall SPONSOR: Duncan
Relating to state government privacy policy.
(AMENDED)

HB 2446 Glaze SPONSOR: Madla
Relating to emergency medical services.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 2453 Berman SPONSOR: Shapleigh
Relating to conditions for issuance of certain revenue bonds by the Veterans' Land Board.
(AMENDED)

HCR 283 Homer SPONSOR: Ratliff
Honoring Fred G. Wilkerson as he retires as superintendent of the Cooper I.S.D.

HCR 286 Lewis, Ron SPONSOR: Brown, J. E. "Buster"
Honoring Darrell K Royal on his many achievements.

HCR 291 Rangel
Recalling H.B. No. 2218 from the governor.

HJR 85 Bosse SPONSOR: Lindsay
Proposing a constitutional amendment to allow current and retired public school teachers and retired public school administrators to receive compensation for serving on the governing bodies of school districts, cities, towns, or other local government districts.
(AMENDED)

SB 949 Shapiro
Relating to the applicability of municipal zoning ordinances to open-enrollment charter schools.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 140 (viva-voce vote)

SB 170 (30 Yeas, 0 Nays, 1 Present Not Voting)

SB 236 (30 Yeas, 0 Nays, 1 Present Not Voting)

SB 274 (viva-voce vote)

SB 285 (viva-voce vote)

SB 368 (viva-voce vote)

SB 433 (30 Yeas, 0 Nays, 1 Present Not Voting)
SB 572 (viva-voce vote)
SB 647 (viva-voce vote)
SB 649 (viva-voce vote)
SB 673 (30 Yeas, 0 Nays, 1 Present Not Voting)
SB 702 (30 Yeas, 0 Nays, 1 Present Not Voting)
SB 707 (viva-voce vote)
SB 873 (viva-voce vote)
SB 1043 (viva-voce vote)
SB 1057 (30 Yeas, 0 Nays, 1 Present Not Voting)
SB 1300 (30 Yeas, 0 Nays, 1 Present Not Voting)
SB 1304 (viva-voce vote)
SB 1376 (viva-voce vote)
SB 1539 (30 Yeas, 0 Nays, 1 Present Not Voting)
SB 1710 (viva-voce vote)
SB 1806 (viva-voce vote)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 22

Senate Conferees: Shapiro - Chair/Armbrister/Harris/Moncrief/Nelson

SB 1119

Senate Conferees: Armbrister - Chair/Brown, J. E. "Buster"/Lucio/Moncrief/Staples

Respectfully,

Betty King

Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, May 17, 2001 - 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:

SB 1237 Moncrief

Relating to immunizations and the immunization registry.

Respectfully,

Betty King

Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Thursday, May 17, 2001 - 5

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 6 Dunnam SPONSOR: Bivins

Relating to open-enrollment charter schools.

(COMMITTEE SUBSTITUTE/AMENDED)

HB 177 Luna, Vilma SPONSOR: Staples

Relating to the authority of the commissioners court of a county to create a justice court technology fund and to require certain defendants to pay court costs for deposit in the fund.

HB 1053 Coleman SPONSOR: Gallegos

Relating to the creation of commercial and industrial development zones in certain populous counties; providing for taxes and the issuance of bonds.

HB 1765 Turner, Bob SPONSOR: Fraser

Relating to the creation of the County Court at Law of Brown County.

HB 1811 Kolkhorst SPONSOR: Duncan

Relating to the use of certain federal housing funds.

(AMENDED)

HB 1981 Farabee SPONSOR: Lindsay

Relating to competitive purchasing procedures applying to certain purchases and contracts of governmental entities.

(COMMITTEE SUBSTITUTE/AMENDED)

HB 2368 George SPONSOR: Shapiro
Relating to the fees assessed by a district court in Dallas County for certain services rendered in juvenile or family law cases.
(AMENDED)

HB 2421 Hawley SPONSOR: Madla
Relating to establishing a program to recruit rural medical students for service in rural communities.
(AMENDED)

HB 2436 Merritt SPONSOR: Brown, J. E. "Buster"
Relating to a requirement that the Bureau of Economic Geology of The University of Texas at Austin conduct a study of the East Texas Oil Field.
(AMENDED)

HB 2531 Junell SPONSOR: Bivins
Relating to tuition and fees charged at public institutions of higher education.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 3069 Chisum SPONSOR: Duncan
Relating to the maintenance of certain cemeteries.
(AMENDED)

HB 3572 George SPONSOR: Lindsay
Relating to establishing an unrelated donor umbilical cord blood bank.
(AMENDED)

HCR 203 Thompson SPONSOR: Barrientos
Granting RFD & Associates, Inc. permission to sue the State of Texas and the Office of Attorney General subject to Chapter 107, Civil Practices and Remedies Code.

HCR 239 Christian SPONSOR: Staples
Honoring the Nine Flags Festival for promoting public awareness about the rich heritage of Nacogdoches County.

Respectfully,

Betty King
Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Thursday, May 17, 2001 - 6

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 171 Lewis, Glenn SPONSOR: Nelson
Relating to the prosecution of certain offenses involving damage or destruction of property.

(COMMITTEE SUBSTITUTE)

HB 472 Solomons SPONSOR: Shapleigh
Relating to the regulation of telemarketing solicitation; providing penalties.
(AMENDED)

HB 1154 Raymond SPONSOR: Zaffirini
Relating to authorizing the Health and Human Services Commission to make grants to community-based organizations to provide support for long-term care services.

HB 1267 Dukes SPONSOR: Carona
Relating to the investigation by a local law enforcement agency of certain reports alleging child abuse.

HB 1287 Thompson SPONSOR: Whitmire
Relating to the establishment of drug court programs and to a study of drug court programs by the Criminal Justice Policy Council.
(COMMITTEE SUBSTITUTE)

HB 1323 Shields SPONSOR: Staples
Relating to the expunction of arrest records and files when an indictment or information is dismissed or quashed.
(COMMITTEE SUBSTITUTE)

HB 1716 Puente SPONSOR: Van de Putte
Relating to the establishment and operation of the San Antonio Life Sciences Institute in The University of Texas System.
(COMMITTEE SUBSTITUTE)

HB 2616 Solis, Jim SPONSOR: Lucio
Relating to a prohibition against converting the Queen Isabella Causeway to a turnpike project.

HB 3587 Walker SPONSOR: Barrientos
Relating to the exemption from permitting requirements for certain wells in a groundwater conservation district.
(AMENDED)

HB 3637 Hilderbran SPONSOR: Fraser
Relating to the County Court at Law of Burnet County.

HB 3652 Morrison SPONSOR: Armbrister
Relating to the creation, administration, powers, duties, operation, and financing of the Lavaca County Groundwater Conservation District.
(AMENDED)

Respectfully,

Betty King
Secretary of the Senate

Message No. 7**MESSAGE FROM THE SENATE
SENATE CHAMBER**

Austin, Texas

Thursday, May 17, 2001 - 7

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 978 Eiland SPONSOR: Bernsen
Relating to the appeal of certain orders, judgments, and decrees.

HB 1505 Yarbrough SPONSOR: Carona
Relating to the regulation of plumbing; providing a penalty.

HB 2367 Williams SPONSOR: Bernsen
Relating to the liability of certain nonprofit organizations and their employees and volunteers.

Respectfully,

Betty King
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 16Civil Practices - **SCR 1**Insurance - **SB 712, SCR 37**Judicial Affairs - **SB 1378, SB 1379, SB 1417, SJR 49**Natural Resources - **SB 1764, SB 1784**Pensions & Investments - **SB 273**

Public Education - **SB 403, SB 579, SB 704, SB 927, SB 998, SB 1543, SB 1705, SB 1727, SB 1731, SB 1766, SB 1785, SCR 24**

Public Health - **SB 581**State, Federal & International Relations - **SCR 2**Ways & Means - **SB 180, SB 944, SB 1542**

ENROLLED

May 16 - HB 80, HB 106, HB 139, HB 178, HB 391, HB 409, HB 430, HB 461, HB 462, HB 467, HB 471, HB 533, HB 548, HB 569, HB 688, HB 742, HB 805, HB 845, HB 958, HB 965, HB 1047, HB 1059, HB 1098, HB 1216, HB 1222, HB 1264, HB 1265, HB 1279, HB 1299, HB 1314, HB 1351, HB 1378, HB 1419, HB 1459, HB 1460, HB 1466, HB 1493, HB 1512, HB 1516, HB 1636, HB 1684, HB 1703, HB 1768, HB 1833, HB 1842, HB 1891, HB 1927, HB 1989, HB 1990, HB 1994, HB 2071, HB 2147, HB 2158, HB 2217, HB 2258, HB 2307, HB 2314, HB 2381, HB 2384, HB 2440, HB 2463, HB 2491, HB 2543, HB 2796, HB 2807, HB 2814, HB 2864, HB 2874, HB 2875, HB 2922, HB 2923, HB 3024, HB 3064, HB 3132, HB 3334, HB 3357, HB 3365, HB 3636, HB 3661, HCR 74, HCR 77, HCR 84, HCR 88, HCR 181, HCR 192, HCR 197, HCR 210, HJR 75

SENT TO THE GOVERNOR

May 16 - HB 10, HB 178, HB 391, HB 409, HB 430, HB 461, HB 462, HB 467, HB 471, HB 533, HB 569, HB 688, HB 742, HB 805, HB 845, HB 899, HB 958, HB 965, HB 1047, HB 1059, HB 1066, HB 1098, HB 1103, HB 1216, HB 1222, HB 1264, HB 1265, HB 1314, HB 1351, HB 1460, HB 1466, HB 1493, HB 1516, HB 1636, HB 1684, HB 1687, HB 1703, HB 1768, HB 1833, HB 1842, HB 1891, HB 1927, HB 1989, HB 1990, HB 1994, HB 2071, HB 2147, HB 2158, HB 2217, HB 2258, HB 2345, HB 2384, HB 2814, HB 3024, HB 3132, HB 3334, HB 3357, HB 3365, HB 3450, HB 3636, HB 3661

SIGNED BY THE GOVERNOR

May 16 - HB 898, HB 966, HB 992, HB 997, HB 1041, HB 1629, HB 1632, HB 1634, HB 1679, HB 1790, HB 1840, HB 1881, HB 1979, HB 2220, HB 2275, HB 2428

