

HOUSE JOURNAL

SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-SEVENTH DAY — FRIDAY, MAY 18, 2001

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

The roll of the house was called and a quorum was announced present (Record 483).

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; 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; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Hilbert; Pickett.

The invocation was offered by Dr. John A. Hatch, pastor, First Baptist Church, Lake Jackson, as follows:

Our Father in heaven, we thank you for the privilege of calling upon your name in prayer. You are the sovereign Lord of this universe. We have no other god above you, no other god before you, and no other god beside you. You are our God.

Your Word tells us we are to pray for those who govern us. We give thanks for the elected officials of this body. We express gratitude for the distinguished men and women who serve the citizens of this great state. Give them your guidance in all their deliberations; grant them Christ-like compassion as they speak for those who cannot speak for themselves; bless them with visionary leadership and extraordinary courage in the cause of righteousness, justice, and truth.

Lord, you have not called our leaders to be indecisive, but to have rock-like confidence in what you have taught us in your Word. When your truth has advanced in this state, it has not advanced through timid, vacillating, lukewarm leaders. Grant the men and women of this body the boldness and courage to govern by convictions and not by polls. Grant them a peaceful confidence in your sovereign rule in the affairs of men.

We pray for Governor Perry and Speaker Laney. Grant them health and strength, courage, and wisdom, as they discharge their duties. We pray for Representative Bonnen and his staff as they serve the citizens of Brazoria County and the State of Texas.

We pray for a great spiritual awakening in the land. Help us to understand the answers to the multiple problems in our nation do not rest to the right or to the left, but above.

Thank you for hearing our prayer as we make it in the strong name of Jesus Christ, your Son and our Savior. Amen.

LEAVES OF ABSENCE GRANTED

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

Hilbert on motion of Haggerty.

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

Pickett on motion of T. King.

CAPITOL PHYSICIAN

The speaker recognized Representative E. Jones who presented Dr. Miguel Ramirez Colon of San Antonio as the "Doctor for the Day."

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

COMMITTEE GRANTED PERMISSION TO MEET

Representative Sadler requested permission for the conference committee on **HB 3343** to meet while the house is in session for the remainder of the session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Conference committee on **HB 3343**, 10:30 a.m. today, Betty King committee room.

MESSAGE FROM THE SENATE

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

SCR 61 - ADOPTED (Geren - House Sponsor)

Representative Geren moved to suspend all necessary rules to take up and consider at this time **SCR 61**.

The motion prevailed without objection.

The following resolution was laid before the house:

SCR 61, Supporting the selection of Lockheed Martin Aeronautics in Fort Worth as the site for the Joint Strike Fighter construction program.

SCR 61 was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative Geren, who introduced a delegation from Lockheed Martin Aeronautics.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 30 and House List No. 58).

HR 1142 - ADOPTED

(by Dutton)

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 1142**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1142, In memory of Mattie Jean DeWalt of Houston.

HR 1142 was read and was unanimously adopted by a rising vote.

On motion of Representative Counts, the names of all the members of the house were added to **HR 1142** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Dutton, who introduced the family of Mattie Jean DeWalt.

HR 1021 - ADOPTED

(by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 1021**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1021, In memory of Curtis Dale Tunnell of Austin.

HR 1021 was read and was unanimously adopted by a rising vote.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hunter, who introduced the family of Curtis Dale Tunnell.

HCR 265, designating Balmorhea as the "Oasis of West Texas," having been previously adopted, was read.

LEAVE OF ABSENCE GRANTED

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

Gutierrez on motion of Hinojosa.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hochberg, who introduced friends and family of Dr. Thomas F. Burks II, and colleagues from The University of Texas Health Science Center.

HR 689, in memory of Dr. Thomas F. Burks II of Houston, having been previously adopted, was read.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on **HB 3343**:

Pitts on motion of R. Lewis.

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **HB 3343**:

Hochberg on motion of R. Lewis.

Marchant on motion of R. Lewis.

Sadler on motion of R. Lewis.

Tillery on motion of R. Lewis.

INTRODUCTION OF GUESTS

The speaker recognized Representative Green, who introduced representatives of the armed forces.

HR 623, recognizing May 2001 as Armed Forces and Veteran Appreciation month in the State of Texas, having been previously adopted, was read.

**HR 1130 - ADOPTED
(by Farabee)**

Representative Farabee moved to suspend all necessary rules to take up and consider at this time **HR 1130**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1130, Honoring Samuel Bier on being named Veteran of the Year by the Texas House of Representatives Veterans and Military Affairs Coalition.

HR 1130 was read and was adopted without objection.

On motion of Representative Kitchen, the names of all the members of the house were added to **HR 1130** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Farabee, who introduced Samuel Bier, Texas House of Representatives Veterans and Military Affairs Coalition Veteran of the Year, and his wife, Ruth.

HR 982 - ADOPTED
(by Callegari)

Representative Callegari moved to suspend all necessary rules to take up and consider at this time **HR 982**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 982, Congratulating Jerry and Ann Hays of Henderson on the occasion of their 50th wedding anniversary.

HR 982 was read and was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative Callegari, who introduced Jerry and Ann Hays and their family and friends.

HR 1139 - ADOPTED
(by J. Moreno)

Representative J. Moreno moved to suspend all necessary rules to take up and consider at this time **HR 1139**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1139, In memory of Brandon Cole Pittman of Shreveport, Louisiana.

HR 1139 was read and was unanimously adopted by a rising vote.

On motion of Representative Uher, the names of all the members of the house were added to **HR 1139** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative J. Moreno, who introduced the family and friends of Brandon Cole Pittman, President Larry Faulkner, Coach Mack Brown, and other representatives from The University of Texas.

HCR 292 - ADOPTED
(by Garcia)

Representative Garcia moved to suspend all necessary rules to take up and consider at this time **HCR 292**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 292, Declaring June 2001 to be "Falun Dafa Awareness Month" in Texas.

HCR 292 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. 1).

SCR 63 - ADOPTED
(Craddick - House Sponsor)

Representative Craddick moved to suspend all necessary rules to take up and consider at this time **SCR 63**.

The motion prevailed without objection.

The following resolution was laid before the house:

SCR 63, Recognizing the American Combat Airman Hall of Fame as the official Combat Hall of Fame of the State of Texas.

SCR 63 was adopted without objection.

HR 1135 - ADOPTED
(by Morrison)

Representative Morrison moved to suspend all necessary rules to take up and consider at this time **HR 1135**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1135, Honoring Arthur T. Ward for his distinguished service as mayor of Shiner.

HR 1135 was adopted without objection.

HR 1083 - ADOPTED
(by Hodge)

Representative Hodge moved to suspend all necessary rules to take up and consider at this time **HR 1083**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1083, Honoring Julian Harrison of Dallas for his service as an honorary page.

HR 1083 was adopted without objection.

HR 1084 - ADOPTED
(by Hodge)

Representative Hodge moved to suspend all necessary rules to take up and consider at this time **HR 1084**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1084, Honoring Corrian Williams of Dallas for her service as an honorary page.

HR 1084 was adopted without objection.

HR 1141 - ADOPTED
(by Kuempel)

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **HR 1141**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1141, Recognizing Brittney L. Grigg for her service to the office of State Representative Edmund Kuempel.

HR 1141 was read and was adopted without objection.

On motion of Representative Edwards, the names of all the members of the house were added to **HR 1141** as signers thereof.

HR 1125 - ADOPTED
(by Green)

Representative Green moved to suspend all necessary rules to take up and consider at this time **HR 1125**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1125, Honoring Texas country musicians, cowboy poets, storytellers, and artists.

HR 1125 was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hunter, who introduced Donna Albus from the West Texas Rehabilitation Center; Molly Yarger, quiltmaker and owner of Country Pleasures quilt store in Abilene; and Maudie Reeves who has volunteered her quilting skills for the benefit of the West Texas Rehabilitation Center.

HR 1136 - ADOPTED
(by Chavez)

Representative Chavez moved to suspend all necessary rules to take up and consider at this time **HR 1136**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1136, Congratulating Leonard Hall of El Paso on his recent 68th birthday and commending him for his humanitarianism.

HR 1136 was adopted without objection.

HR 1062 - ADOPTED
(by Chavez, P. Moreno, Pickett, Haggerty, and Najera)

Representative Chavez moved to suspend all necessary rules to take up and consider at this time **HR 1062**.

The motion prevailed without objection.

The following resolution was laid before the house:

(Speaker pro tempore in the chair)

HR 1062, In memory of Carly Raquel Martinez of El Paso.

HR 1062 was read and was unanimously adopted by a rising vote.

HR 1001 - ADOPTED
(by Edwards)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 1001**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1001, Honoring State Representative Helen Giddings for her myriad accomplishments.

HR 1001 was read and was adopted without objection.

On motion of Representative S. Turner, the names of all the members of the house were added to **HR 1001** as signers thereof.

**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.)

CONGRATULATORY AND MEMORIAL CALENDAR

The following congratulatory resolutions were laid before the house:

HR 714 (by Counts), Congratulating Jarrod Gee of Sweetwater on receiving a first team honorable mention All-American award from Athletes of Good News.

HR 764 (by McClendon), Honoring Alice Rose Kennedy of San Antonio on winning an Outstanding Achievement Award from the Texas Legislative Black Caucus.

HR 765 (by McClendon), Honoring Robert Washington, Jr., of San Antonio on winning an Outstanding Texan Award from the Texas Legislative Black Caucus.

HR 766 (by McClendon), Congratulating Erica Yates of San Antonio on being named a 2001 recipient of the Outstanding Achievement Award in the Female Youth Category from the Texas Legislative Black Caucus.

HR 767 (by McClendon), Honoring Dr. Angie Stokes Runnels for receiving a 2001 Outstanding Texan Award from the Texas Legislative Black Caucus.

HR 768 (by McClendon), Congratulating Melvin L. Braziel of San Antonio on his receipt of a 2001 Outstanding Achievement Award from the Texas Legislative Black Caucus.

HR 770 (by McClendon), Congratulating Vernon O. "Spot" Barnett of San Antonio for receiving an Outstanding Achievement Award from the Texas Legislative Black Caucus.

HR 771 (by McClendon), Honoring Michael Lex Shepherd for receiving a 2001 Outstanding Texan Award from the Texas Legislative Black Caucus.

HR 776 (by Chavez), Honoring the Riverside High School robotics team on claiming top honors at the FIRST Robotics Lone Star Regional.

HR 782 (by Clark), Honoring Judge James R. Fry of Grayson County.

HR 783 (by Clark), Honoring Judge Rayburn M. Nall, Jr., of Sherman for his outstanding record of service.

HR 784 (by Clark), Commending the Honorable Ray F. Grisham of Sherman on his outstanding public service.

HR 786 (by Capelo), Honoring the Calallen High School baseball team of Corpus Christi on winning the 2000 UIL Class 4A state baseball title.

HR 798 (by Swinford), Honoring Benny Mathis on his retirement.

HR 807 (by Dukes), Honoring Ruby Mae Earls Collins of Austin for her outstanding leadership of the B. L. H. Bradshaw Mission II Women's Convention Auxiliary to the St. John Regular Baptist Association.

HR 812 (by Solis), Congratulating Santiago and Maria Solis of Harlingen on the occasion of their 44th wedding anniversary.

HR 813 (by Dukes), Welcoming the Taylor-Fields-Hobby descendants to Austin for their family reunion June 8-9, 2001.

HR 815 (by Hilderbran), Honoring Colonel William R. "Randy" Furr of Pflugerville for his military service.

HR 823 (by Chavez), Recognizing Keep America Beautiful and Keep El Paso Beautiful for their outstanding efforts organizing the 19th annual Great American Cleanup.

HR 824 (by Chavez), Honoring Juanita H. Quinteros of El Paso for her accomplishments.

HR 867 (by McClendon), Honoring Henry Cisneros for his myriad good works in behalf of our state and nation.

HR 876 (by Keel), Honoring the American Council of Young Political Leaders for its significant contributions and service as a goodwill ambassador for the United States.

HR 884 (by Miller), Congratulating Stephenville High School for winning the Division I state powerlifting championship.

HR 888 (by Chavez), Paying tribute to the participants in the Mother-Daughter Program.

HR 890 was withdrawn.

HR 893 (by Clark), Honoring Judge Carol M. Siebman of Grayson County.

HR 906 (by West), Congratulating Aubrey Jearl and Mary Kathryn McCalla Cunningham of Canton on their 40th wedding anniversary.

HR 907 (by Dukes), Congratulating Mamie Robinson of Pflugerville on her retirement as principal of L. L. Campbell Elementary School.

HR 917 (by Hardcastle), Honoring the 150th anniversary of Fort Belknap on June 23, 2001.

HR 918 (by Hopson), Honoring the marriage of Lisa Hopson Cohen and Anthony Lee Harris on July 14, 2001.

HR 920 (by Gray), Honoring Sharon Denise Conlee on her retirement from the Texas City Independent School District.

HR 924 (by Krusee), Honoring John and Joan Figlan of Austin on their 50th wedding anniversary.

HR 927 (by Delisi), Honoring Brenda King on her retirement from Killeen ISD.

HR 928 (by P. King), Congratulating Dr. David Naugle of Dallas Baptist University on his selection as a 2000 Piper Professor.

HR 929 (by P. King), Honoring Dona Brewer of Weatherford on her retirement from the Texas Agricultural Extension Service.

HR 934 (by P. King), Honoring William Henry Pharis III, on graduating from Dallas Theological Seminary.

HR 936 (by Solomons), Congratulating The Home Depot on opening its 100th store in Texas.

HR 938 (by Dutton), Recognizing the Second Annual Third Ward Teen Symposium at Boynton Chapel United Methodist Church.

HR 948 (by Naishtat), Honoring Sharon Justice for her tenure at The University of Texas at Austin.

HR 951 (by West), Honoring the Odessa High School Student Council for its noteworthy accomplishments.

HR 955 (by Farabee), Congratulating Kirby Junior High School in Wichita Falls for its selection as the top magnet school at the 19th International Conference on Magnet Schools.

HR 969 (by Chavez), Honoring Anabel Romero of El Paso on the occasion of her graduation from Southwest Texas State University.

HR 971 (by West), Honoring Barbara Henderson for receiving a lifetime achievement award.

HR 981 was withdrawn.

HR 982 was previously adopted.

HR 988 (by Clark), Commending the Honorable Don Jarvis, judge of County Court at Law No. 1 of Grayson County, on his impressive record of service.

HR 991 (by Gallego), Honoring C. V. Uranga of San Antonio on the occasion of his 80th birthday.

HR 993 (by Hochberg), Honoring St. Luke's Hospital for receiving recognition for excellence in nursing services.

HR 995 (by Krusee), Honoring Mike and Starr Freeman of Round Rock on the occasion of their 20th wedding anniversary.

HR 998 (by Pitts), Congratulating Sylvia Smith of Red Oak on winning the Texas Historical Commission's John Ben Shepperd Leadership Award.

HR 1001 was previously adopted.

HR 1002 (by Chavez), Honoring the inductees of the 2001 El Paso County Democratic Hall of Fame.

HR 1010 (by Maxey), Recognizing Austin Musical Theatre.

HR 1011 (by Kolkhorst), Congratulating the members of the Brenham Middle School fifth grade UIL academic teams.

HR 1013 (by Kuempel), Honoring Rosita Ornelas of Guadalupe County for being inducted into the Tejano Music Hall of Fame.

HR 1020 (by Salinas), Honoring Noel A. Guerra for his tenure with Jim Hogg County ISD.

HR 1044 (by Salinas), Honoring the academic teams from La Vernia High School for their exemplary performances at the 2001 UIL Small School Academic Contest Championship.

HR 1067 (by Dukes), Honoring Don T. Haynes, Jr., for 25 years of outstanding service as LBJ High School director of bands.

HR 1068 (by Dukes), Recognizing North American Occupational Safety and Health Week on May 6-12, 2001, and commending Prism Development, Inc., for its safety consciousness.

HR 1074 (by Keffer), Honoring Robert Echols of Albany for receiving a 2001 Jefferson Award.

HCR 278 (by Geren), Congratulating the Texas Christian University Lady Frogs basketball team on winning their first Western Athletic Conference championship.

HCR 285 (by Hartnett), Honoring Robert S. "Bob" Driegert for his impressive record of service as chairman of the Dallas County Republican Party.

SCR 46 (Eiland - House Sponsor), Honoring the 2001 Friendswood High School academic decathlon team for winning the state competition.

The resolutions were adopted without objection.

The following memorial resolutions were laid before the house:

HR 877 (by Keel), In memory of Ernest Montgomery of Austin.

HR 880 (by Hilderbran), In memory of Dr. Luther W. Ross of Kerrville.

HR 891 (by Delisi), Honoring the memory of Dr. Charles F. Kallina III of Temple.

HR 902 (by McReynolds), In memory of Don V. Hackney of Lufkin.

HR 905 (by West), In memory of Zachary Franco of Odessa.

HR 915 (by E. Jones), In memory of Arthur A. Seeligson, Jr., of San Antonio.

HR 923 (by Gallego), In memory of Juliana Bermudez Chavez of Alpine.

HR 925 (by J. Jones), In memory of Minnie Ruth White Bouldin of Dallas.

HR 926 (by Delisi), Honoring the memory of Wythel Louween Killen "Kitty" Mayborn of Temple.

HR 947 (by Luna and Capelo), In memory of former State Representative Joseph John "Joe" Salem of Corpus Christi.

HR 950 (by West), In memory of Charles Frederick "Fred" Gibson III of Odessa.

HR 958 was withdrawn.

HR 977 (by R. Lewis), In memory of Maureen Jane Hutchins of Orange.

HR 987 (by Clark), In memory of James Arvel "Jim" Lamance of Cherry Mound.

HR 992 (by Gallego), In memory of Clifton R. Pearce of Alpine.

HR 999 (by Delisi), Honoring the memory of Naomi B. Hodges of Temple.

HR 1062 was previously adopted.

HCR 273 (by McReynolds), In memory of Pauline DeBerry of Lufkin.

The resolutions were unanimously adopted by a rising vote.

SB 342 - VOTE RECONSIDERED

Representative Alexander moved to reconsider the vote by which **SB 342** was passed.

The motion to reconsider prevailed.

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. 2 - Vote Reconsidered

Representative Alexander moved to reconsider the vote by which Amendment No. 2 was adopted.

The motion to reconsider prevailed.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Y. Davis offered the following amendment to **SB 342**:

Amend **SB 342**, on third reading, in the SECTION of the bill that was added to the bill on second reading by Floor Amendment No. 3, by Alexander, and that substituted a new Section 361.003, Transportation Code, by striking added Section 361.003(b), Transportation Code, and substitute the following:

(b) An authority created under Subsection (a) is governed by a board of directors. 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 as the presiding officer of the board. For an authority that includes an even number of counties, the commissioners court of each county of the authority shall appoint one director to serve on the board and the governor shall appoint one director to serve on the board as the presiding officer of 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 as the presiding officer of the board.

Amendment No. 3 was adopted without objection.

SB 342, as amended, was passed.

SB 730 - VOTE RECONSIDERED

Representative Thompson moved to reconsider the vote by which **SB 730** was passed.

The motion to reconsider prevailed.

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.

Amendment No. 1

Representatives P. King and Keel offered the following amendment to **SB 730**:

Amend **SB 730** on third reading as follows:

(1) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS accordingly:

SECTION __.Section 543.004, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) This section may not be construed to limit an officer's authority to make a warrantless arrest for any offense under a law not included in this subtitle.

(2) Strike the SECTION of Second Reading Amendment No. 2 by P. King that amends Article 14.06, Code of Criminal Procedure.

Amendment No. 1 was adopted without objection.

SB 730, as amended, was passed.

SB 484 - VOTE RECONSIDERED

Representative Haggerty moved to reconsider the vote by which **SB 484** was passed.

The motion to reconsider prevailed.

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.

Amendment No. 1

Representative Haggerty offered the following amendment to **SB 484**:

Amend **SB 484**, on third reading, by striking Subsection (p), Section 5, Article 9102, Revised Statutes, as amended on second reading by Amendment No. 1 by Pitts, and substituting the following:

(q) ~~[(p)]~~ Notwithstanding other provisions of this article, the commission shall require complete compliance with the standards and specifications prescribed or referenced by Subsection (p) ~~[(p)]~~ of this section. The department and the General Services Commission shall ensure that all buildings and facilities leased, with an annual lease expense in excess of \$12,000, or built by or for the state to which those standards apply comply with those standards. ~~The [Notwithstanding other provisions of this article, the] department, an entity with whom the commission contracts under Subsection (d) of this section, or a person who holds a certificate of registration issued under Section 5A of this article shall perform an on-site inspection of each building or facility [at all buildings and facilities to be] leased by the state, with an annual lease expense in excess of \$12,000, before the building or facility is occupied in whole or in part by the state for compliance with all accessibility standards and specifications adopted under this article. The leasing agency or the General Services Commission, as applicable, shall cancel the lease unless the lessor brings into compliance any condition that the inspection finds not to be in compliance with all applicable standards and specifications not later than:~~

(1) the 60th day after the date the department, the entity with whom the commission contracts under Subsection (d) of this section, or the person who holds a certificate of registration issued under Section 5A of this article delivers the results of the inspection to the lessor or the lessor's agent; or

(2) a later date established by the commission if circumstances justify a later date.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Haggerty offered the following amendment to **SB 484**:

Amend **SB 484** on third reading as follows:

(1) In SECTION 1 of the bill, in the introductory language, between "(d)," and "(n)" (house committee printing page 1, line 8), insert "(k),".

(2) In SECTION 1 of the bill, in amended Section 5, Article 9102, Revised Statutes, between Subsections (d) and (n) (house committee printing page 1, between lines 15 and 16), insert the following:

(k) Plans and specifications that are subject to Subsection (j) of this section [related to the building or facility] shall be submitted to the department by the architect, interior designer, landscape architect, or engineer who has overall responsibility for the design of the constructed or reconstructed building or facility. The architect, interior designer, landscape architect, or engineer shall submit the plans and specifications to the department not later than the fifth day, not including Saturdays, Sundays, and legal holidays, after the date on which the architect, interior designer, landscape architect, or engineer as appropriate, issues the plans or specifications. If plans and specifications are issued on more than date, the architect, interior designer, landscape architect, or engineer shall submit the plans and specifications to the department not later than the fifth day, not including Saturdays, Sundays, and legal holidays, after each date the plans and specifications are issued. The owner of the building or facility may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, modification, or alteration of the building or facility to begin before the date the plans and specifications are submitted to the department [places the applicable professional seal on the plans and specifications. If there is no architect, interior designer, landscape architect, or engineer with that responsibility, the owner shall submit the plans and specifications to the department at least 30 days within the date the construction or renovation, modification, or alteration on the building or facility begins]. On application to a local governmental entity for a building construction permit related to the plans and specifications, the owner shall submit to the entity proof that the plans and specifications have been submitted to the department under this article. A public official of a political subdivision who is legally authorized to issue building construction permits may not accept an application for a building construction permit for a building or facility subject to Subsection (j) of this section unless the official verifies that the building or facility has been registered with the department as provided by rule.

Amendment No. 2 was adopted without objection.

A record vote was requested.

SB 484, as amended, was passed by (Record 484): 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; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; 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; 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; Zbraneck.

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

Absent, Excused — Gutierrez; Hilbert; Pickett.

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

Absent — Flores.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Business and Industry, upon noon recess today, Desk 3, for a formal meeting.

Public Health, upon noon recess today, Desk 6, for a formal meeting, to consider senate bills.

Insurance, upon noon recess today, Desk 24, for a formal meeting.

Economic Development, upon noon recess today, Desk 124, for a formal meeting, to consider pending business.

Transportation, upon noon recess today, Desk 25, for a formal meeting.

State Recreational Resources, upon noon recess today, Desk 28, for a formal meeting, to consider **SCR 51**.

Natural Resources, upon noon recess today, Desk 9, for a formal meeting, to consider **HR 983** and **SB 1821**.

RECESS

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

The motion prevailed without objection.

The house accordingly, at 12:01 p.m., recessed until 1:30 p.m. today.

AFTERNOON SESSION

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

**HB 651 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative P. King called up with senate amendments for consideration at this time,

HB 651, A bill to be entitled An Act relating to the operation of certain all-terrain vehicles on public streets, roads, and highways.

On motion of Representative P. King, the house concurred in the senate amendments to **HB 651**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amendment: On Page one after Line 24, add the following:

(4) Provision of the Texas Transportation Code regarding helmet and eye protection use, safety certification, and other vehicular restrictions do not apply to this subsection.

Senate Amendment No. 2 (Senate Floor Amendment No. 1 - 2nd Reading)

Amend **HB 651** as follows:

Starting on page 1, line 24, strike Subsection (d) and replace with the following:

"(d) the operator of an all-terrain vehicle may drive the vehicle on a public street, road, or highway that is not an interstate or limited-access highway if:

(1) the transportation is in connection with the production, cultivation, care, harvesting, preserving, drying, processing, canning, storing, handling, shipping, marketing, selling, or use of agricultural products, as defined by Section 52.002, Agriculture Code;

(2) the operator attaches to the back of the vehicle on top of an eight foot long pole a triangular orange flag;

(3) the vehicle's headlights and taillights are illuminated; and

(4) the operator holds a driver's license, as defined by Section 521.001."

Senate Amendment No. 3 (Senate Floor Amendment No. 1 - 3rd reading)

Amend **HB 651** on third reading in SECTION 2 of the bill, in amended Section 663.037, Transportation Code, by striking proposed Subsection (d), as changed by the committee amendment and the floor amendment, and inserting the following:

(d) The operator of an all-terrain vehicle may drive the vehicle on a public street, road, or highway that is not an interstate or limited-access highway if:

(1) the transportation is in connection with the production, cultivation, care, harvesting, preserving, drying, processing, canning, storing, handling, shipping, marketing, selling, or use of agricultural products, as defined by Section 52.002, Agriculture Code;

(2) the operator attaches to the back of the vehicle on top of an eight-foot-long pole a triangular orange flag;

(3) the vehicle's headlights and taillights are illuminated;

(4) the operator holds a driver's license, as defined by Section 521.001;

(5) the operation of the all-terrain vehicle occurs in the daytime; and
(6) the operation of the all-terrain vehicle does not exceed a distance
of 25 miles from the point of origin to the destination.

Provisions of this code regarding helmet and eye protection use, safety certification, and other vehicular restrictions do not apply to this subsection.

HB 689 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

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

HB 689, A bill to be entitled An Act relating to the jurisdiction of statutory probate courts and to conforming procedures for transferring juvenile proceedings to certain courts.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 689**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 689** in SECTION 3 of the bill (committee printing page 1, line 51), by striking "25.0633(c)".

HB 7 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

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

HB 7, A bill to be entitled An Act relating to creating the Office of Rural Community Affairs.

On motion of Representative Chisum, the house concurred in the senate amendments to **HB 7**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 7** by inserting a new SUBCHAPTER J on page 35, line 7, to read as follows:

SUBCHAPTER J. DESIGNATING RURAL HOSPITALS.

Sec. 487.401. ADMINISTRATION. (a) The executive committee shall adopt rules that establish a procedure for designating a hospital as a rural hospital in order for the hospital to qualify for federal funds under 42 C.F.R. part 412.

(b) At the hospital's request, the office shall designate the hospital as a rural hospital if the hospital meets the requirements for a rural hospital under the commission's rules.

Senate Amendment No. 2 (Senate Committee Amendment No. 2)

Amend **HB 7** as follows:

- (1) On page 40, line 4, insert ", foundation," after "fund" and before "or".

HB 1027 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

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

HB 1027, A bill to be entitled An Act relating to the cleanup of contaminated property.

On motion of Representative Cook, the house concurred in the senate amendments to **HB 1027**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1027** (Senate Committee Printing) as follows:

(1) In SECTION 2 of the bill, in proposed Subsection (t), Section 4A, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) (page 1, line 40), add the following after the period:

A corporation created under this section may use proceeds from the sales and use tax to undertake the cleanup of contaminated property only if the use of tax proceeds for that purpose is authorized by a majority of the qualified voters of the city voting in an election called and held for that purpose. The ballot in an election held under this subsection shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for the cleanup of contaminated property."

(2) In SECTION 3 of the bill, in proposed Subsection (p), Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) (page 1, line 47), add the following after the period:

Notwithstanding any other provision of this section, a corporation created under this section may use proceeds from the sales and use tax to undertake the cleanup of contaminated property only if the use of tax proceeds for that purpose is authorized by a majority of the qualified voters of the city voting in an election called and held for that purpose. The ballot in an election held under this subsection shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for the cleanup of contaminated property."

**HB 1094 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1094, A bill to be entitled An Act relating to the creation of a state prescription drug program for certain Medicare beneficiaries.

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 1094**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1094**: Gray, chair, Coleman, Janek, Junell, and Keffer.

**HB 1415 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1415, A bill to be entitled An Act relating to the duty of law enforcement agencies regarding records associated with certain defendants receiving deferred adjudication.

On motion of Representative Farrar, the house concurred in the senate amendments to **HB 1415**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1415** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 411.081, Government Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) Notwithstanding any other provision of this subchapter, if a person is placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, subsequently receives a discharge and dismissal under Section 5(c), Article 42.12, and satisfies the requirements of Subsection (e), a criminal justice agency may not disclose to the public criminal history record information related to the offense giving rise to the deferred adjudication on or after:

(1) the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor other than a misdemeanor described by Subdivision (2);

(2) the fifth anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor under Chapter 20, 21, 22, 25, 42, or 46, Penal Code; or

(3) the 10th anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

(e) A person is entitled to the benefit provided under Subsection (d) only if during the applicable period described by Subsection (d)(1), (2), or (3), as appropriate, the person is not convicted of or placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, for any offense other than an offense under the Transportation Code punishable by fine only. A person is not entitled to the benefit provided under Subsection (d) during any period in which the person is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(f) For purposes of Subsection (d), a person is considered to have been placed on deferred adjudication community supervision if, regardless of the statutory authorization:

(1) the person entered a plea of guilty or nolo contendere;

(2) the person was placed under the supervision of the court or an officer under the supervision of the court; and

(3) at the end of the period of supervision the judge dismissed the proceedings and discharged the person.

SECTION 2. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.139 to read as follows:

Sec. 552.139. EXCEPTION: RECORDS OF CERTAIN DEFERRED ADJUDICATIONS. (a) Subject to the dates provided by Subsection (b) and the requirements of Subsection (c), information is excepted from the requirements of Section 552.021 if the information relates to an arrest and the

prosecution of an offense for which a person is placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, and subsequently receives a discharge and dismissal under Section 5(c), Article 42.12.

(b) The exception provided by Subsection (a) for information related to an arrest and the prosecution of an offense for which a person is placed on deferred adjudication is available only on or after:

(1) the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor other than a misdemeanor described by Subdivision (2);

(2) the fifth anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor under Chapter 20, 21, 22, 25, 42, or 46, Penal Code; or

(3) the 10th anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

(c) A person is entitled to the benefit provided under Subsection (a) only if during the applicable period described by Subsection (b)(1), (2), or (3), as appropriate, the person is not convicted of or placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, for any offense other than an offense under the Transportation Code punishable by fine only. A person is not entitled to the benefit provided under Subsection (a) during any period in which the person is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(d) For purposes of Subsections (a) and (b), a person is considered to have been placed on deferred adjudication community supervision if, regardless of the statutory authorization:

(1) the person entered a plea of guilty or nolo contendere;

(2) the person was placed under the supervision of the court or an officer under the supervision of the court; and

(3) at the end of the period of supervision the judge dismissed the proceedings and discharged the person.

(e) A person who is the subject of information that is excepted from the requirements of Section 552.021 under this section may deny the occurrence of the arrest and prosecution to which the information relates and the exception of the information under this section, unless the information is being used against the person in a subsequent criminal proceeding.

SECTION 3. The change in law made by this Act applies to information related to a deferred adjudication or similar procedure described by Section 411.081(f), Government Code, as added by this Act, regardless of whether the deferred adjudication or procedure is entered before, on, or after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2001.{}

HB 2255 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2255, A bill to be entitled An Act relating to the continuation and functions of the State Securities Board; providing penalties.

On motion of Representative McCall, the house concurred in the senate amendments to **HB 2255**.

Senate Committee Substitute

CSHB 2255, A bill to be entitled An Act relating to the continuation and functions of the State Securities Board; providing penalties.

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

ARTICLE 1. GENERAL OPERATIONS AND ADMINISTRATION OF THE STATE SECURITIES BOARD

SECTION 1.01. Section 2, The Securities Act (Article 581-2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. CREATING THE STATE SECURITIES BOARD AND PROVIDING FOR APPOINTMENT OF SECURITIES COMMISSIONER. A. The State Securities Board is hereby created. The Board shall consist of five [~~three~~] citizens of the state appointed by the governor with [~~With~~] the advice and consent of the Senate [~~, the Governor shall biennially appoint one member~~]. Members of the Board serve for staggered terms of six years, with as near as possible to one-third of the members' terms expiring January 20 of each odd-numbered year [~~The term of each member shall be six (6) years from the time of his appointment and qualification, and until his successor shall qualify~~]. Vacancies shall be filled by the Governor for the unexpired term. Members shall be eligible for reappointment. Appointments to the Board shall be made without regard to the race, color, disability [~~creed~~], sex, religion, age, or national origin of the appointees.

B. Board members must be members of the general public. A person is not eligible for appointment as a member if the person or the person's spouse:

(1) is registered as a dealer, [~~salesman~~], agent, [~~or~~] investment adviser, or investment adviser representative;

(2) has an active notice filing under this Act to engage in business in this state as an investment adviser or investment adviser representative;

(3) is employed by or participates in the management of a business entity engaged in business as a securities dealer or investment adviser; or

(4) [~~(3)~~] has, other than as a consumer, a financial interest in a business entity engaged in business as a securities dealer or investment adviser.

[~~C. A person who is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation in or for a profession related to the operation of the Board, may not serve as a member of the Board or act as the general counsel to the Board.~~]

D. Each member of the Board is entitled to per diem as set by legislative appropriation for each day that the member engages in the business of the Board.

The Governor shall designate a member of the Board as the presiding officer of the Board to serve in that capacity at the will of the Governor [~~They shall select their own chairman~~]. A majority of the members shall constitute a quorum for the transaction of any business.

E. It is a ground for removal from the Board that [~~if~~] a member:

(1) does not have at the time of taking office [~~appointment~~] the

qualifications required by Subsection A or B of this section for appointment to the Board;

(2) does not maintain during [the] service on the Board the qualifications required by Subsection A or B of this section for appointment to the Board; [or]

(3) is ineligible for membership under Subsection B or C of this section or Section 2-1 of this Act;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled Board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the Board [~~violates a prohibition established by Subsection C of this section~~].

F. The validity of an action of the Board is not affected by the fact that it is [was] taken when a ground for removal of a Board member exists [of the Board existed]. If the Commissioner has knowledge that a potential ground for removal exists, the Commissioner shall notify the presiding officer of the Board of the potential ground. The presiding officer shall then notify the Governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the Commissioner shall notify the next highest ranking officer of the Board, who shall then notify the Governor and the attorney general that a potential ground for removal exists.

G. The Board shall appoint a Securities Commissioner who serves at the pleasure of the Board and who shall, under the supervision of the Board, administer the provisions of this Act. Each member of the Board shall have access to all offices and records under his supervision, and the Board, or a majority thereof, may exercise any power or perform any act authorized to the Securities Commissioner by the provisions of this Act.

H. The Commissioner, with the consent of the Board, may designate a Deputy Securities Commissioner who shall perform all the duties required by law to be performed by the Securities Commissioner when the said Commissioner is absent or unable to act for any reason. The Commissioner shall appoint other persons as necessary to carry out the powers and duties of the Commissioner under this Act and other laws granting jurisdiction or applicable to the Board or the Commissioner. The Commissioner may delegate to the other persons appointed under this subsection powers and duties of the Commissioner as the Commissioner considers necessary.

I. Before assuming office, the Securities Commissioner shall first give a bond in the sum of Twenty-five Thousand Dollars (\$25,000.00) payable to and to be approved by the Governor, conditioned that he will faithfully execute the duties of his office. The same requirement is made of the Deputy Securities Commissioner, and the Securities Commissioner may require any or all of his staff and employees to be likewise bonded. The expense of all such bonds may be paid by the state.

J. On or before January 1 of each year, the Board, with the advice of the Commissioner, shall report to the Governor and the presiding officer of each house of the Legislature as to its administration of this Act, as well as plans and needs for future securities regulation. The report must include a detailed

accounting of all funds received and disbursed by the Board during the preceding year.

K. The Commissioner or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of all nonentry level positions for at least ten (10) days before any public posting. The Commissioner or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for Board employees must be based on the system established under this section.

L. The Board shall prepare information of consumer interest describing the regulatory functions of the Board and Commissioner and describing the Board's and Commissioner's procedures by which consumer complaints are filed with and resolved by the Board or Commissioner. The Board shall make the information available to the general public and appropriate state agencies. There shall be prominently displayed at all times in the place of business of each dealer, ~~[salesman, or]~~ agent, ~~investment adviser, or investment adviser representative~~ regulated under this Act, a sign containing the name, mailing address, and telephone number of the Board and a statement informing consumers that complaints against a dealer, ~~[salesman, or]~~ agent, ~~investment adviser, or investment adviser representative~~ may be directed to the Board.

M. The financial transactions of the Board are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

N. The Board and Commissioner are subject to Chapters 551, 2001, and 2002, Government Code.

O. The State Securities Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this Act expires September 1, 2013 ~~[2004]~~.

SECTION 1.02. The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Sections 2-1, 2-2, 2-3, 2-4, 2-5, 2-6, 2-7, and 2-8 to read as follows:

Sec. 2-1. CONFLICT OF INTEREST. A. In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

B. A person may not be a member of the Board and may not be a Board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a field regulated by the Board; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field regulated by the Board.

C. A person may not be a member of the Board or act as the general counsel to the Board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the Board.

Sec. 2-2. INFORMATION ABOUT STANDARDS OF CONDUCT. The Commissioner or the Commissioner's designee shall provide to members of the

Board and to Board employees, as often as necessary, information regarding the requirements for office or employment under this Act, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 2-3. TRAINING. A. A person who is appointed to and qualifies for office as a member of the Board may not vote, deliberate, or be counted as a member in attendance at a meeting of the Board until the person completes a training program that complies with this section.

B. The training program must provide the person with information regarding:

(1) the legislation that created the Board;
(2) the programs operated by the Board;
(3) the role and functions of the Board;
(4) the rules of the Board with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the Board;

(6) the results of the most recent formal audit of the Board;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government

Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the Board or the Texas Ethics Commission.

C. A person appointed to the Board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 2-4. DIVISION OF POLICY AND MANAGEMENT RESPONSIBILITIES. The Board shall develop and implement policies that clearly separate the policymaking responsibilities of the Board and the management responsibilities of the Commissioner and employees of the Board.

Sec. 2-5. PUBLIC TESTIMONY. The Board by rule shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Board and to speak on any issue under the jurisdiction of the Board.

Sec. 2-6. COMPLAINTS INFORMATION. A. The Commissioner or the Commissioner's designee shall maintain a file on each written complaint filed with the Commissioner or Board concerning an employee, former employee, or person registered under this Act. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the Commissioner or Board;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the Commissioner closed the file without taking action other than to investigate the complaint.

B. The Commissioner or the Commissioner's designee shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the Board's policies and procedures relating to complaint investigation and resolution.

C. The Commissioner or the Commissioner's designee, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 2-7. EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT. A. The Commissioner or the Commissioner's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

B. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the Board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the Board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

C. The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection B(1) of this section; and

(3) be filed with the governor's office.

Sec. 2-8. INFORMATION ABOUT STATE EMPLOYEE INCENTIVE PROGRAM. The Commissioner or the Commissioner's designee shall provide to Board employees information and training on the benefits and methods of participation in the state employee incentive program.

SECTION 1.03. The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 43 to read as follows:

Sec. 43. INVESTOR EDUCATION. A. The Commissioner, with Board approval, shall develop and implement investor education initiatives to inform the public about the basics of investing in securities, with a special emphasis placed on the prevention and detection of securities fraud. Materials developed for and distributed as part of the initiatives must be published in both Spanish and English.

B. In developing and implementing the initiatives, the Commissioner shall use the Commissioner's best efforts to collaborate with public or nonprofit entities with an interest in investor education.

C. Subject to Chapter 575, Government Code, the Commissioner may accept grants and donations from a person who is not affiliated with the securities industry or from a nonprofit association, regardless of whether the entity is affiliated with the securities industry, for use in providing investor education initiatives.

SECTION 1.04. As soon as possible after the effective date of this Act, the governor shall appoint one member to the State Securities Board for a term expiring January 20, 2005, and another member to the State Securities Board for a term expiring January 20, 2007. As those terms expire, the governor shall appoint members to full six-year terms.

SECTION 1.05. Not later than September 1, 2002, the Securities Commissioner shall implement the investor education initiatives as required by Section 43, The Securities Act (Article 581-43, Vernon's Texas Civil Statutes), as added by this Act.

SECTION 1.06. The changes in law made by this Act in the prohibitions and qualifications applying to members of the State Securities Board do not affect the entitlement of a member serving on the board immediately before September 1, 2001, to continue to serve and function as a member of the board for the remainder of the member's term. The changes in law apply only to a member appointed on or after September 1, 2001.

ARTICLE 2. REGULATORY PROVISIONS

SECTION 2.01. Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes), is amended by amending Subsections B, C, D, and E and adding Subsections N, O, P, and Q to read as follows:

B. The terms "person" and "company" shall include a corporation, person, joint stock company, partnership, limited partnership, association, company, firm, syndicate, trust, incorporated or unincorporated, heretofore or hereafter formed under the laws of this or any other state, country, sovereignty or political subdivision thereof, and shall include a government, or a political subdivision or agency thereof. As used herein, the term "trust" shall be deemed to include a common law trust, but shall not include a trust created or appointed under or by virtue of a last will and testament or by a court of law or equity. ~~[Under the criminal penal provisions of Section 29 of this Act, the word "person" shall mean a natural person.]~~

C. The term "dealer" shall include every person or company other than an agent ~~[a salesman]~~, who engages in this state, either for all or part of his or its time, directly or through an agent, in selling, offering for sale or delivery or soliciting subscriptions to or orders for, or undertaking to dispose of, or to invite offers for any security or securities ~~[and every person or company who engages in rendering services as an investment adviser,]~~ and every person or company who deals in any other manner in any security or securities within this state. Any issuer other than a registered dealer of a security or securities, who, directly or through any person or company, other than a registered dealer, offers for sale, sells or makes sales of its own security or securities shall be deemed a dealer and shall be required to comply with the provisions hereof; provided, however, this section or provision shall not apply to such issuer when such security or securities are offered for sale or sold either to a registered dealer or only by or through a registered dealer acting as fiscal agent for the issuer; and provided further, this section or provision shall not apply to such issuer if the transaction is within the exemptions contained in the provisions of Section 5 of this Act.

D. The term ~~["salesman" or]~~ "agent" shall include every person or company employed or appointed or authorized by a dealer to sell, offer for sale or delivery, or solicit subscriptions to or orders for, or deal in any other

manner, in securities within this state, whether by direct act or through subagents; provided, that the officers of a corporation or partners of a partnership shall not be deemed [~~salesmen or~~] agents solely because of their status as officers or partners, where such corporation or partnership is registered as a dealer hereunder.

E. The terms "sale" or "offer for sale" or "sell" shall include every disposition, or attempt to dispose of a security for value. The term "sale" means and includes contracts and agreements whereby securities are sold, traded or exchanged for money, property or other things of value, or any transfer or agreement to transfer, in trust or otherwise. Any security given or delivered with or as a bonus on account of any purchase of securities or other thing of value, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. The term "sell" means any act by which a sale is made, and the term "sale" or "offer for sale" shall include a subscription, an option for sale, a solicitation of sale, a solicitation of an offer to buy, an attempt to sell, or an offer to sell, directly or by an agent [~~or salesman~~], by a circular, letter, or advertisement or otherwise, including the deposit in a United States Post Office or mail box or in any manner in the United States mails within this State of a letter, circular or other advertising matter. Nothing herein shall limit or diminish the full meaning of the terms "sale," "sell" or "offer for sale" as used by or accepted in courts of law or equity. The sale of a security under conditions which entitle the purchaser or subsequent holder to exchange the same for, or to purchase some other security, shall not be deemed a sale or offer for sale of such other security; but no exchange for or sale of such other security shall ever be made unless and until the sale thereof shall have been first authorized in Texas under this Act, if not exempt hereunder, or by other provisions of law.

N. "Investment adviser" includes a person who, for compensation, engages in the business of advising another, either directly or through publications or writings, with respect to the value of securities or to the advisability of investing in, purchasing, or selling securities or a person who, for compensation and as part of a regular business, issues or adopts analyses or a report concerning securities, as may be further defined by Board rule. The term does not include:

(1) a bank or a bank holding company, as defined by the Bank Holding Company Act of 1956 (12 U.S.C. Section 1841 et seq.), as amended, that is not an investment company;

(2) a lawyer, accountant, engineer, teacher, or geologist whose performance of the services is solely incidental to the practice of the person's profession;

(3) a dealer or agent who receives no special compensation for those services and whose performance of those services is solely incidental to transacting business as a dealer or agent;

(4) the publisher of a bona fide newspaper, news magazine, or business or financial publication of general and regular circulation; or

(5) a person whose advice, analyses, or report does not concern a security other than a security that is:

(A) a direct obligation of or an obligation the principal or interest of which is guaranteed by the United States government; or

(B) issued or guaranteed by a corporation in which the United States has a direct or indirect interest and designated by the United States Secretary of the Treasury under Section 3(a)(12), Securities Exchange Act of 1934 (15 U.S.C. Section 78c(a)(12)), as amended, as an exempt security for purposes of that Act.

O. "Federal covered investment adviser" means an investment adviser who is registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.), as amended.

P. "Investment adviser representative" or "representative of an investment adviser" includes each person or company who, for compensation, is employed, appointed, or authorized by an investment adviser to solicit clients for the investment adviser or who, on behalf of an investment adviser, provides investment advice, directly or through subagents, as defined by Board rule, to the investment adviser's clients. The term does not include a partner of a partnership or an officer of a corporation or other entity that is registered as an investment adviser under this Act solely because of the person's status as an officer or partner of that entity.

Q. "Registered investment adviser" means an investment adviser who has been issued a registration certificate by the Commissioner under Section 15 of this Act.

SECTION 2.02. Section 5, The Securities Act (Article 581-5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. EXEMPT TRANSACTIONS. Except as hereinafter in this Act specifically provided, the provisions of this Act shall not apply to the sale of any security when made in any of the following transactions and under any of the following conditions, and the company or person engaged therein shall not be deemed a dealer within the meaning of this Act; that is to say, the provisions of this Act shall not apply to any sale, offer for sale, solicitation, subscription, dealing in or delivery of any security under any of the following transactions or conditions:

A. At any judicial, executor's, administrator's, guardian's or conservator's sale, or any sale by a receiver or trustee in insolvency or bankruptcy.

B. The sale by or for the account of a pledge holder or mortgagee, selling or offering for sale or delivery in the ordinary course of business to liquidate a bona fide debt, of a security pledged in good faith as security for such debt.

C. (1) Sales of securities made by or in behalf of a vendor, whether by dealer or other agent, in the ordinary course of bona fide personal investment of the personal holdings of such vendor, or change in such investment, if such vendor is not engaged in the business of selling securities and the sale or sales are isolated transactions not made in the course of repeated and successive transactions of a like character; provided, that in no event shall such sales or offerings be exempt from the provisions of this Act when made or intended by the vendor or his agent, for the benefit, either directly or indirectly, of any company or corporation except the individual vendor (other than a usual commission to said agent), and provided further, that any person acting as agent for said vendor shall be registered pursuant to this Act;

(2) Sales by or on behalf of any insurance company subject to the supervision or control of the Texas Department of Insurance of any security owned by such company as a legal and bona fide investment, provided that in no event shall any such sale or offering be exempt from the provisions of this Act when made or intended, either directly or indirectly, for the benefit of any other company as that term is defined in this Act.

D. The distribution by a corporation of securities direct to its stockholders as a stock dividend or other distribution paid out of earnings or surplus.

E. Any offer and any transaction pursuant to any offer by the issuer of its securities to its existing security holders (including persons who at the time of the transaction are holders of convertible securities or nontransferable warrants) if no commission or other remuneration (other than a stand-by commission) is paid or given directly or indirectly for soliciting any security holder in this State.

F. The issue in good faith of securities by a company to its security holders, or creditors, in the process of a bona fide reorganization of the company made in good faith, or the issue in good faith of securities by a company, organized solely for the purpose of taking over the assets and continuing the business of a predecessor company, to the security holders or creditors of such predecessor company, provided that in either such case such securities are issued in exchange for the securities of such holders or claims of such creditors, or both, and in either such case security holders or creditors do not pay or give or promise and are not obligated to pay or give any consideration for the securities so issued other than the securities of or claims against said company or its predecessor then held or owned by them.

G. The issue or sale of securities (a) by one corporation to another corporation or the security holders thereof pursuant to a vote by one or more classes of such security holders, as required by the certificate of incorporation or the applicable corporation statute, in connection with a merger, consolidation or sale of corporate assets, or (b) by one corporation to its own stockholders in connection with the change of par value stock to no par value stock or vice versa, or the exchange of outstanding shares for the same or a greater or smaller number of shares; provided that in any such case such security holders do not pay or give or promise and are not obligated to pay or give any consideration for the securities so issued or sold other than the securities of the corporation then held by them.

H. The sale of any security to any bank, trust company, building and loan association, insurance company, surety or guaranty company, savings institution, investment company as defined in the Investment Company Act of 1940, small business investment company as defined in the Small Business Investment Act of 1958, as amended, or to any registered dealer actually engaged in buying and selling securities.

I. Provided such sale is made without any public solicitation or advertisements:

(a) the sale of any security by the issuer thereof so long as the total number of security holders of the issuer thereof does not exceed thirty-five (35) persons after taking such sale into account;

(b) the sale or distribution by an employer or its participating subsidiary, if any, of a security under a thrift, savings, stock purchase, retirement, pension, profit-sharing, option, bonus, appreciation right, incentive, or similar employee benefit plan for employees or directors of the employer or its subsidiary; or

(c) the sale by an issuer of its securities during the period of twelve (12) months ending with the date of the sale in question to not more than fifteen (15) persons (excluding, in determining such fifteen (15) persons, purchasers of securities in transactions exempt under other provisions of this Section 5, purchasers of securities exempt under Section 6 hereof and purchasers of securities which are part of an offering registered under Section 7 hereof), provided such persons purchased such securities for their own account and not for distribution.

J. Wherein the securities disposed of consist exclusively of notes or bonds secured by mortgage or vendor's lien upon real estate or tangible personal property, and the entire mortgage is sold or transferred with all of the notes or bonds secured thereby in a single transaction.

K. Any security or membership issued by a corporation or association, organized exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any stockholder, shareholder, or individual members, and where no commission or remuneration is paid or given or is to be paid or given in connection with the disposition thereof.

L. The sale by the issuer itself, or by a registered dealer, of any security issued or guaranteed by any bank organized and subject to regulation under the laws of the United States or under the laws of any State or territory of the United States, or any insular possession thereof, or by any savings and loan association organized and subject to regulation under the laws of this State, or the sale by the issuer itself of any security issued by any federal savings and loan association.

M. The sale by the issuer itself, or by a registered dealer, of any security either issued or guaranteed by the United States or by any territory or insular possession thereof, or by the District of Columbia, or by any state of the United States, or political subdivision thereof (including but not limited to any county, city, municipal corporation, district, or authority), or by any public or governmental agency or instrumentality of any of the foregoing.

N. The sale and issuance of any securities issued by any farmers' cooperative marketing association organized under Chapter 52, Agriculture Code, or the predecessor of that law (Article 5737 et seq., Revised Statutes); the sale and issuance of any securities issued by any mutual loan corporation organized under Chapter 54, Agriculture Code, or the predecessor of that law (Article 2500 et seq., Revised Statutes); the sale and issuance of any equity securities issued by any cooperative association organized under the Cooperative Association Act, as amended (Article 1396-50.01, Vernon's Texas Civil Statutes); and the sale of any securities issued by any farmers' cooperative society organized under Chapter 51, Agriculture Code, or the predecessor of that law (Article 2514 et seq., Revised Statutes). Provided,

however, this exemption shall not be applicable to agents [~~and salesmen~~] of any farmers' cooperative marketing association, mutual loan corporation, cooperative association, or farmers' cooperative society when the sale of such securities is made to non-members, or when the sale of such securities is made to members or non-members and a commission is paid or contracted to be paid to the said agents [~~or salesmen~~].

O. The sale by a registered dealer of outstanding securities provided that:

(1) Such securities form no part of an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer thereof; and

(2) Securities of the same class, of the same issuer, are outstanding in the hands of the public; and

(3) Such securities are offered for sale, in good faith, at prices reasonably related to the current market price of such securities at the time of such sale; and

(4) No part of the proceeds of such sale are paid directly or indirectly to the issuer of such securities; and

(5) Such sale is not directly or indirectly for the purposes of providing or furthering any scheme to violate or evade any provision of this Act; and

(6) The right to sell or resell such securities has not been enjoined by any court of competent jurisdiction in this State by proceedings instituted by an officer or agency of this State charged with enforcement of this Act; and

(7) The right to sell such securities has not been revoked or suspended by the commissioner under any of the provisions of this Act, or, if so, revocation or suspension is not in force and effect; and

(8) At the time of such sale, the issuer of such securities shall be a going concern actually engaged in business and shall then be neither in an organization stage nor in receivership or bankruptcy; and

(9) Such securities or other securities of the issuer of the same class have been registered by qualification, notification or coordination under Section 7 of this Act; or at the time of such sale at least the following information about the issuer shall appear in a recognized securities manual or in a statement, in form and extent acceptable to the commissioner, filed with the commissioner by the issuer or by a registered dealer:

(a) A statement of the issuer's principal business;

(b) A balance sheet as of a date within eighteen (18) months of the date of such sale; and

(c) Profit and loss statements and a record of the dividends paid, if any, for a period of not less than three (3) years prior to the date of such balance sheet or for the period of existence of the issuer, if such period of existence is less than three (3) years.

The term "recognized securities manual" means a nationally distributed manual of securities that is approved for use hereunder by the Board.

The Commissioner may issue a stop order or by order prohibit, revoke or suspend the exemption under this Subsection O with respect to any security if the Commissioner has reasonable cause to believe that the plan of business of the issuer of such security, the security, or the sale thereof would

tend to work a fraud or deceit upon any purchaser or purchasers thereof, such order to be subject to review in the manner provided by Section 24 of this Act. Notice of any court injunction enjoining the sale, or resale, of any such security, or of an order revoking or suspending the exemption under this subdivision with respect to any security, shall be delivered or shall be mailed by certified or registered mail with return receipt requested, to any dealers believed to be selling, or offering for sale, securities of the type referred to in the notice; and the prohibitions of (6) and (7) above of this Subsection O shall be inapplicable to any dealer until the dealer has received actual notice from the commissioner of such revocation or suspension.

The Board may for cause shown revoke or suspend the recognition hereunder of any manuals previously approved under this Subsection but no such action may be taken unless upon notice and opportunity for hearing before the Board or a hearings officer as now or hereafter required by law. A judgment sustaining the Board in the action complained of shall not bar after one year an application by the plaintiff for approval of its manual or manuals hereunder, nor shall a judgment in favor of the plaintiff prevent the Board from thereafter revoking such recognition for any proper cause which may thereafter accrue or be discovered.

P. The execution by a dealer of an unsolicited order for the purchase of securities, where the initial offering of such securities has been completed and provided that the dealer acts solely as an agent for the purchaser, has no direct or indirect interest in the sale or distribution of the security ordered, and receives no commission, profit, or other compensation from any source other than the purchaser.

Q. The sales of interests in and under oil, gas or mining leases, fees or titles, or contracts relating thereto, where (1) the total number of sales by any one owner of interests, whether whole, fractional, segregated or undivided in any single oil, gas or mineral lease, fee or title, or contract relating thereto, shall not exceed thirty-five (35) within a period of twelve (12) consecutive months and (2) no use is made of advertisement or public solicitation; provided, however, if such sale or sales are made by an agent for such owner or owners, such agent shall be licensed pursuant to this Act. No oil, gas or mineral unitization or pooling agreement shall be deemed a sale under this Act.

R. The sale by the issuer itself, or by a subsidiary of such issuer, of any securities which would be exempt if sold by a registered dealer under Section 6 (other than Section 6E) of this Act.

S. The sale by or through a registered dealer of any option if at the time of the sale of the option:

(1) the performance of the terms of the option is guaranteed by any broker-dealer registered under the federal Securities Exchange Act of 1934, as amended, which guaranty and broker-dealer are in compliance with such requirements or regulations as may be approved or adopted by the board;

(2) the option is not sold by or for the benefit of the issuer of the security which may be purchased or sold upon exercise of the option;

(3) the security which may be purchased or sold upon exercise of the option is either (a) exempted under Subsection F of Section 6 of this Act or (b) quoted on the NASDAQ stock market [National

~~Association of Securities Dealers Automated Quotation system]~~ and meets the requirements of Paragraphs (1), (6), (7), and (8) of Subsection O of Section 5 of this Act; and

(4) such sale is not directly or indirectly for the purposes of providing or furthering any scheme to violate or evade any provisions of this Act.

For purposes of this subsection the term "option" shall mean and include any put, call, straddle, or other option or privilege of buying or selling a specified number of securities at a specified price from or to another person, without being bound to do so, on or prior to a specified date, but such term shall not include any option or privilege which by its terms may terminate prior to such specified date upon the occurrence of a specified event.

T. Such other transactions or conditions as the board by rule, regulation, or order may define or prescribe, conditionally or unconditionally.

SECTION 2.03. Section 6, The Securities Act (Article 581-6, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. EXEMPT SECURITIES. Except as hereinafter in this Act expressly provided, the provisions of this Act shall not apply to any of the following securities when offered for sale, or sold, or dealt in by a registered dealer or agent ~~[salesman]~~ of a registered dealer:

D. Any security issued or guaranteed either as to principal, interest, or dividend, by a corporation owning or operating a railroad or any other public service utility; provided, that such corporation is subject to regulation or supervision either as to its rates and charges or as to the issue of its own securities by the Railroad Commission of Texas, or by a public commission, agency, board or officers of the Government of the United States, or of any territory or insular possession thereof, or of any state or municipal corporation, or of the District of Columbia, or of the Dominion of Canada, or any province thereof; also equipment trust certificates or equipment notes or bonds based on chattel mortgages, leases or agreements for conditional sale of cars, motive power or other rolling stock mortgages, leased or sold to or furnished for the use of or upon a railroad or other public service utility corporation, provided that such corporation is subject to regulation or supervision as above; or equipment trust certificates, or equipment notes or bonds where the ownership or title of such equipment is pledged or retained in accordance with the provisions of the laws of the United States, or of any state, territory or insular possession thereof, or of the District of Columbia, or the Dominion of Canada, or any province thereof, to secure the payment of such equipment trust certificates, bonds or notes.

E. Any security issued and sold by a domestic corporation without capital stock and not organized and not engaged in business for profit.

F. Securities which at the time of sale have been fully listed upon the American Stock Exchange, the Boston Stock Exchange, the Chicago ~~[Midwest]~~ Stock Exchange or the New York Stock Exchange, have been designated or approved for designation on notice of issuance on the national market system of the NASDAQ stock market ~~[National Association of Securities Dealers Automated Quotation National Market System]~~, or have been fully listed upon any recognized and responsible stock exchange approved by the Commissioner as hereinafter in this section provided, and also all securities

senior to, or if of the same issues, upon a parity with, any securities so listed or designated or represented by subscription rights which have been so listed or designated, or evidence of indebtedness guaranteed by any company, any stock of which is so listed or designated, such securities to be exempt only so long as the exchange upon which such securities are so listed remains approved under the provisions of this Section. Application for approval by the Commissioner may be made by any organized stock exchange in such manner and upon such forms as may be prescribed by the Commissioner, but no approval of any exchange shall be given unless the facts and data supplied with the application shall be found to establish:

(1) That the requirements for the listing of securities upon the exchange so seeking approval are such as to effect reasonable protection to the public;

(2) That the governing constitution, by-laws or regulations of such exchange shall require:

1st: An adequate examination into the affairs of the issuer of the securities which are to be listed before permitting trading therein;

2nd: That the issuer of such securities, so long as they be listed, shall periodically prepare, make public and furnish promptly to the exchange, appropriate financial, income, and profit and loss statements;

3rd: Securities listed and traded in on such exchange to be restricted to those of ascertained, sound asset or income value;

4th: A reasonable surveillance of its members, including a requirement for periodical financial statements and a determination of the financial responsibility of its members and the right and obligation in the governing body of such exchange to suspend or expel any member found to be financially embarrassed or irresponsible or found to have been guilty of misconduct in his business dealings, or conduct prejudicial of the rights and interests of his customers;

The approval of any such exchange by the Commissioner shall be made only after a reasonable investigation and hearing, and shall be by a written order of approval upon a finding of fact substantially in accordance with the requirements hereinabove provided. The Commissioner, upon ten (10) days notice and hearing, shall have power at any time to withdraw approval theretofore granted by him to any such stock exchange which does not at the time of hearing meet the standards of approval under this Act, and thereupon securities so listed upon such exchange shall be no longer entitled to the benefit of such exemption except upon the further order of said Commissioner approving such exchange.

By the same procedure set out in the preceding paragraph with respect to exchanges approved by the Commissioner, the Commissioner may suspend the exempt status of any trading system exempted by the Legislature on or after January 1, 1989, if that system does not at the time of hearing meet the applicable standards for approval of exchanges prescribed by this Act. The suspension has the same effect as the removal of approval of an exchange. The suspension remains in effect until the Commissioner by order determines that the trading system has corrected the deficiency or deficiencies on which the suspension was based and maintains standards and procedures that provide reasonable protection to the public.

H. Any commercial paper that arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and that evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper that is likewise limited, or any guarantee of such paper or of any such renewal.

I. Notes, bonds, or other evidence of indebtedness or certificates of ownership which are equally and proportionately secured without reference of priority of one over another, and which, by the terms of the instrument creating the lien, shall continue to be so secured by the deposit with a trustee of recognized responsibility approved by the Commissioner of any of the securities specified in Subsection M of Section 5 or Subsection D of Section 6; such deposited securities, if of the classes described in Subsection M of Section 5, having an aggregate par value of not less than one hundred and ten per cent (110%) of the par value of the securities thereby secured, and if of class specified in Subsection D of Section 6, having an aggregate par value of not less than one hundred and twenty five per cent (125%) of the par value of the securities thereby secured.

J. Notes, bonds or other evidence of indebtedness of religious, charitable or benevolent corporations.

SECTION 2.04. Subsection A, Section 7, The Securities Act (Article 581-7, Vernon's Texas Civil Statutes), is amended to read as follows:

A. Qualification of Securities. (1) No dealer or [;] agent [~~or salesman~~] shall sell or offer for sale any securities issued after September 6, 1955, except those which shall have been registered by Notification under subsection B or by Coordination under subsection C of this Section 7 and except those which come within the classes enumerated in Section 5 or Section 6 of this Act, until the issuer of such securities or a dealer registered under the provisions of this Act shall have been granted a permit by the Commissioner; and no such permit shall be granted by the Commissioner until the issuer of such securities or a dealer registered under the provisions of this Act shall have filed with the Commissioner a sworn statement verified under the oath of an executive officer or partner of the issuer, or of such registered dealer, and attested by the secretary or partner thereof, setting forth the following information:

a. The names, residences and post office addresses of the officers and directors of the company;

b. The location of its principal office and of all branch offices in this State, if any;

c. A copy of its articles of incorporation or partnership or association, as the case may be, and of any amendments thereto, if any; if a corporation, a copy of all minutes of any proceedings of its directors, stockholders or members relating to or affecting the issue of said security; if a corporation, a copy of its bylaws and of any amendments thereto; if a trustee, a copy of all instruments by which the trust is created and in which it is accepted, acknowledged or declared;

d. A statement showing the amount of capital stock, if any, and if no capital stock, the amount of capital of the issuer that is contemplated to be employed; the number of shares into which such stock is divided, or if not divided into shares of stock, what division is to be made or is contemplated; the par value of each share, or if no par stock, the price at

which such security is proposed to be sold; the promotional fees or commissions to be paid for the sale of same, including any and all compensations of every nature that are in any way to be allowed the promoters or allowed for the sale of same; and how such compensation is to be paid, whether in cash, securities, service or otherwise, or partly of either or both; also, the amount of cash to be paid, or securities to be issued, given, transferred or sold to promoters for promotion or organization services and expenses, and the amount of promotion or organization services and expenses which will be assumed or in any way paid by the issuer;

e. Copies of certificates of the stock and all other securities to be sold, or offered for sale, together with application blanks therefor; a copy of any contract it proposes to make concerning such security; a copy of any prospectus or advertisement or other description of security prepared by or for it for distribution or publication;

f. 1. A detailed statement prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles, showing all the assets and all the liabilities of the issuer, said statement to reflect the financial condition of the issuer on a day not more than ninety (90) days prior to the date such statement is filed. Such statement shall list all assets in detail and shall show how the value of such assets was determined, that is, whether the value set forth in said statement represents the actual cost in money of such assets, or whether such value represents their present market value, or some other value than the actual cost in money, and shall show the present actual value of said assets; also, whether the value set forth in the statement is greater or less than the actual cost value in money and greater or less than the present market value of such assets. If any of the assets consist of real estate, then said statement shall show the amount for which said real estate is rendered for State and county taxes, or assessed for taxes. If any such assets listed shall consist of anything other than cash and real estate, same shall be set out in detail so as to give the Commissioner the fullest possible information concerning same, and the Commissioner shall have the power to require the filing of such additional information as the Commissioner may deem necessary to determine whether or not the true value of said assets are reflected in the statement filed. Should any of the assets listed in said statement be subject to any repurchase agreement, or any other agreement of like character, by the terms of which the absolute ownership of, or title to said assets is qualified or limited in any way, then the terms and conditions of said agreement by which the absolute ownership of, or title to said assets is qualified or limited, as well as the amount and character of the assets subject thereto shall be fully stated. Said statement shall list all current liabilities, that is, all liabilities which will mature and become due within one year from the date of such application, and shall list separately from such current liabilities, all other liabilities, contingent or otherwise, showing the amount of those which are secured by mortgage or otherwise, the assets of the issuer which are subject to such mortgage, and the dates of maturity of any such mortgage indebtedness. Such application shall also include a detailed income statement, prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles, which shall cover the last three (3) years' operations of the issuer, if such issuer has been in operation for three

(3) years, but if not, said income statement shall cover the time that said issuer has been operating. If said issuer has not been operating, but is taking over a concern of any kind which has been previously operating, an income statement showing the operations of the concern thus taken over for a period of the last three (3) years next preceding the taking over of said concern shall be included in said statement; said income statement shall clearly reflect the amount of net income or net loss incurred during each of the years shown.

2. The financial statements required in subparagraph (1) of this paragraph for a small business issuer, as defined by Board rule, may be reviewed by an independent certified public accountant in accordance with the Statements on Standards for Accounting and Review Services promulgated by the American Institute of Certified Public Accountants in lieu of being audited and certified, provided that the small business issuer otherwise meets all of the requirements that the Board by rule, regulation, or order may prescribe, conditionally or unconditionally.

SECTION 2.05. Section 8, The Securities Act (Article 581-8, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. CONSENT TO SERVICE. Unless the Board by rule otherwise specifies, any application filed or notice filing submitted by an issuer, or by a dealer or investment adviser who ~~[will offer such securities for sale as the agent of the issuer, and the issuer]~~ is organized under the laws of any other state, territory, or government, or domiciled in any other state than Texas, shall contain a provision that appoints ~~[written instrument appointing]~~ the Commissioner the issuer's, dealer's, or investment adviser's true and lawful attorney upon whom all process may be served in any action or proceedings against such issuer, dealer, or investment adviser arising out of any transaction subject to this Act with the same effect as if such issuer, dealer, or investment adviser were organized or created under the laws of this state and had been lawfully served with process therein. The provision [Such instrument] shall be duly executed by an authorized agent of the issuer, dealer, or investment adviser ~~[under proper resolution or authority]~~. Whenever the Commissioner shall have been served with any process as is herein provided, it shall be the duty of the Commissioner to forward same by United States mail to the last known address of such issuer, dealer, or investment adviser.

SECTION 2.06. Subsection C, Section 10, The Securities Act (Article 581-10, Vernon's Texas Civil Statutes), is amended to read as follows:

C. Use of Permit to Aid Sale of Securities Prohibited. It shall be unlawful for any dealer, ~~[or]~~ issuer, or agent ~~[or salesman,]~~ to use a permit authorizing the issuance of securities in connection with any sale or effort to sell any security.

SECTION 2.07. Section 11, The Securities Act (Article 581-11, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. PAPERS FILED WITH COMMISSIONER; RECORDS OPEN TO INSPECTION. All information, papers, documents, instruments and affidavits required by this Act to be filed with the Commissioner shall be deemed public records of this state, and shall be open to the inspection and examination of any purchaser or prospective purchaser of said securities or the agent or representative of such purchaser or prospective purchaser; and the Commissioner shall give out to any such purchaser or prospective

purchaser or his agent or representative any information required to be filed with him under the provisions of this section, or any other part of this Act, and shall furnish any such purchaser, prospective purchaser, or his agent or representative requesting it, certified copies of any and all papers, documents, instruments and affidavits filed with him under the provisions of this section or of any part of this Act. The Commissioner shall maintain a record, which shall be open for public inspection, upon which shall be entered the names and addresses of all registered dealers, registered agents, registered investment advisers, registered investment adviser representatives, and persons who have submitted a notice filing under this Act, [and salesmen] and all orders of the Commissioner denying, suspending or revoking registration. This section does not affect information considered confidential by Section 13-1 or 28 of this Act or other law.

SECTION 2.08. Section 12, The Securities Act (Article 581-12, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. REGISTRATION OF PERSONS SELLING SECURITIES OR RENDERING INVESTMENT ADVICE. A. Except as provided in Section 5 of this Act, no person, firm, corporation or dealer shall, directly or through agents [~~or salesmen~~], offer for sale, sell or make a sale of any securities in this state without first being registered as in this Act provided. No [~~salesman or~~] agent shall, in behalf of any dealer, sell, offer for sale, or make sale of any securities within the state unless registered as an [a salesman or] agent for that particular [of a] registered dealer under the provisions of this Act.

B. Except as provided by Section 5 of this Act, a person may not, directly or through an investment adviser representative, render services as an investment adviser in this state unless the person is registered under this Act, submits a notice filing as provided by Section 12-1 of this Act, or is otherwise exempt under this Act. A person may not act or render services as an investment adviser representative for a certain investment adviser in this state unless the person is registered or submits a notice filing as an investment adviser representative for that particular investment adviser as provided in Section 18 or 12-1 of this Act.

C. The Board may adopt rules and regulations exempting certain classes of persons from the dealer, [~~and~~] agent, investment adviser, and investment adviser representative registration requirements, or providing conditional exemptions from registration, if the Board determines that such rules and regulations are consistent with the purposes of this Act.

SECTION 2.09. The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 12-1 to read as follows:

Sec. 12-1. NOTICE FILING FOR FEDERAL COVERED INVESTMENT ADVISERS AND REPRESENTATIVES OF FEDERAL COVERED INVESTMENT ADVISERS. A. This section does not apply to an investment adviser or investment adviser representative that is exempt from registration under this Act or Board rule.

B. The Board by rule shall authorize a federal covered investment adviser or a representative of a federal covered investment adviser to engage in rendering services as an investment adviser in this state on submission to and receipt by the Commissioner of:

(1) a notice filing on the form and containing the information

prescribed by the Commissioner and, if applicable, a consent to service appointing the Commissioner as the adviser's agent for service of process as required by Section 8 of this Act; and

(2) a fee in the amount determined under Sections 35 and 41 of this Act.

C. After the notice filing fee is paid and all the requirements for a notice filing under Subsection B of this section are met, a notice filing submitted under this section takes effect and is valid for the remainder of the calendar year. A federal covered investment adviser or federal covered investment adviser representative may renew a notice filing on or before its expiration date on submission to and receipt by the Commissioner of:

(1) a renewal notice filing; and

(2) a renewal fee in the amount determined under Sections 35 and 41 of this Act.

SECTION 2.10. Section 13, The Securities Act (Article 581-13, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13. METHOD AND CONDITION OF REGISTRATION REQUIRED FOR DEALER, AGENT, INVESTMENT ADVISER, OR INVESTMENT ADVISER REPRESENTATIVE [~~OF EACH DEALER AND EACH AGENT OR SALESMAN OF EACH DEALER~~]. A. A dealer or investment adviser to be registered must submit a sworn application therefor to the Commissioner, which shall be in such form as the Commissioner may determine and which shall state:

(1) The principal place of business of the applicant wherever situated;

(2) The location of the principal place of business and all branch offices in this state, if any;

(3) The name or style of doing business and the address of the applicant [~~dealer~~];

(4) The names, residences and the business addresses of all persons interested in the business as principal, officer, director or managing agent, specified as to each his capacity and title; and

(5) The general plan and character of business of such applicant and the length of time during and the places at which the applicant [~~dealer~~] has been engaged in the business.

B. An [~~Such~~] application filed by a dealer or investment adviser shall also contain such additional information as to the applicant's previous history, record, associations and present financial condition as may be required by the Commissioner, or as is necessary to enable the Commissioner to determine whether the sale of any securities proposed to be issued or dealt in by such applicant would result in fraud.

C. Each application shall be accompanied by certificates or other evidences satisfactory to the Commissioner establishing the good reputation of the applicant, his directors, officers, copartners or principals.

D. The Commissioner shall require as a condition of registration for all registrations granted after the effective date of this Subsection D that the applicant (and, in the case of a corporation or partnership, the officers, directors or partners to be licensed by the applicant) pass successfully a written examination to determine the applicant's qualifications and competency to engage in the business of dealing in and selling securities as a dealer or agent

~~[as a salesman]~~, or rendering services as an investment adviser or investment adviser representative. This condition may be waived as to any applicant or class of applicants by action of the State Securities Board.

E. Not later than the 30th day after the date a person takes a registration [day on which an] examination [is administered] under this Act, the Board shall notify the person [each examinee] of the results of the examination. If the [However, if an] examination is graded or reviewed by a [national] testing service:

(1) ~~[-]~~ the Board shall notify the person [examinees] of the results of the examination not later than the 14th day after the date [day on which] the Board receives the results from the testing service; and

(2) if [- If the] notice of the examination results will be delayed for longer than 90 [ninety (90)] days after the examination date, the Board shall notify the person [examinee] of the reason for the delay before the 90th day.

F. The Board may require a testing service to notify a person of the results of the person's examination. If requested in writing by a person who fails a registration [an] examination administered under this Act, the Board shall furnish the person with an analysis of the person's performance on the examination.

G. If the applicant is a corporation organized under the laws of any other state or territory or government or shall have its principal place of business therein, it shall accompany the application with a copy of its Articles of Incorporation and all amendments thereto, certified by the proper officer of such state or government or of the corporation, and its regulations and by laws.

H. If a limited partnership, either a copy of its Articles of Copartnership or a verified statement of the plan of doing business.

I. If an unincorporated association or organization under the laws of any other state, territory or government, or having its principal place of business therein, a copy of its Articles of Association, Trust Agreement or other form of organization.

J. It shall be the duty of the Commissioner to prepare a proper form to be used by the applicant under the terms of this Section, and the Commissioner shall furnish copies thereof to all persons desiring to make application to be registered as a dealer or investment adviser.

K. The Commissioner may accept some or all of the examinations administered by securities self-regulatory organizations [the National Association of Securities Dealers] to fulfill the examination requirements of Subsection D.

SECTION 2.11. Section 15, The Securities Act (Article 581-15, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 15. ISSUANCE OF REGISTRATION CERTIFICATES TO DEALERS AND INVESTMENT ADVISERS. If the Commissioner is satisfied that the applicant for a dealer's or investment adviser's certificate of registration has complied with the requirements of the Act above, that the applicant has filed a written consent to service as and when required by Section 8 ~~[16]~~ of this Act, and upon the payment of the fees required by Section 35 of this Act, the Commissioner shall register the applicant and issue to it or him a registration certificate, stating the principal place of business and address of the dealer or investment adviser, the names and business addresses of all

persons interested in the business as principals, officers, directors or managing agents, and the fact that the dealer or investment adviser has been registered for a current calendar year as a dealer in securities or as an investment adviser. Pending final disposition of an application, the Commissioner may, for special cause shown, grant temporary permission, revocable at any time and subject to such terms and conditions as the Commissioner may prescribe, to transact business as a dealer or investment adviser under this Act. Any dealer or investment adviser acting under such a temporary permission, shall be considered a registered dealer or investment adviser for all purposes of this Act.

SECTION 2.12. Section 17, The Securities Act (Article 581-17, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 17. FORM OF CERTIFICATES TO DEALERS AND INVESTMENT ADVISERS. The certificate shall be in such form as the Commissioner may determine. Any changes in the personnel of a partnership or in the principals, officers, directors or managing agents of any dealer or investment adviser shall be immediately certified under oath to the Commissioner and any change in the certificate necessitated thereby may be made at any time, upon written application setting forth the fact necessitating the change. Upon the issue of the amended certificates, the original certificate and the certified copies thereof outstanding shall be promptly surrendered to the Commissioner.

SECTION 2.13. Section 18, The Securities Act (Article 581-18, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 18. REGISTRATION OF AGENTS [~~OR SALESMEN~~] OF DEALERS OR REPRESENTATIVES OF INVESTMENT ADVISERS. Upon written application by a registered dealer or investment adviser, and upon satisfactory compliance with the requirements of the Act above, the Commissioner shall register as an agent [~~agents or salesmen~~] of such dealer or as a representative of the investment adviser such persons as the dealer or investment adviser may request. The application shall be in such form as the Commissioner may prescribe and shall state the residences and addresses of the persons whose registration is requested, together with such information as to such agent's or investment adviser representative's [~~salesman's~~] previous history, record and association as may be required by the Commissioner. Such application shall also be signed and sworn to by the agent or investment adviser representative [~~salesman~~] for whom registration is requested. The Commissioner shall issue to such dealer or investment adviser, to be retained by such dealer or investment adviser for each person so registered, evidence of registration stating the person's name, the address of the dealer or investment adviser, and the fact that the person is registered for the current calendar year as an agent or investment adviser representative [~~salesman~~] of the dealer or investment adviser, as appropriate. The evidence of registration shall be in such form as the Commissioner shall determine. Upon application by the dealer or the investment adviser, the registration of any agent or investment adviser representative [~~salesman~~] shall be cancelled.

SECTION 2.14. Subsection D, Section 19, The Securities Act (Article 581-19, Vernon's Texas Civil Statutes), is amended to read as follows:

D. The Board may recognize, prepare, or administer continuing education programs for a person who is registered under this Act [~~dealers, salesmen, or agents~~]. If participation is required by the Board as a condition of

maintaining the certificate or evidence of registration, a person who is registered under this Act must participate in the continuing education programs [~~Participation in the programs is voluntary~~].

SECTION 2.15. Section 20, The Securities Act (Article 581-20, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 20. DISPLAY OR ADVERTISEMENT OF FACT OF REGISTRATION UNLAWFUL. It shall be unlawful for any dealer, agent, investment adviser, or investment adviser representative [~~salesman~~] to use the fact of his registry, by public display or advertisement, except as hereinafter expressly provided, for the registration certificate or evidence of registration or any certified copy thereof, in connection with any sale or effort to sell any security or any rendering of services as an investment adviser.

SECTION 2.16. Section 21, The Securities Act (Article 581-21, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 21. POSTING REGISTRATION CERTIFICATES [~~OF AUTHORITY~~]. Immediately upon receipt of the dealer's or investment adviser's registration certificate issued pursuant to the authority of this Act, the dealer or investment adviser named therein shall cause such certificate to be posted and at all times conspicuously displayed in such dealer's or investment adviser's principal place of business, if one is maintained in this state, and shall likewise forthwith cause a duplicate of such certificate to be posted and at all times conspicuously displayed in each branch office located within this state.

SECTION 2.17. Subsections A and B, Section 22, The Securities Act (Article 581-22, Vernon's Texas Civil Statutes), are amended to read as follows:

A. Permitted Written, Pictorial, or Broadcast Offers. A written or printed offer (including a pictorial demonstration with any accompanying script) or a broadcast offer (i.e., an offer disseminated by radio, television, recorded telephone presentation, or other mass media) to sell a security may be made in this State if:

(1) a copy of the offer is filed with the Commissioner within 10 days after the date of its first use in this State; and

(2) the person making or distributing the offer in this State is a registered dealer or a registered agent [~~salesman~~] of a registered dealer, as required by this Act; and

(3) either:

(a) the security is registered under Subsection B or C of Section 7 or a permit has been granted for the security under Section 10, or

(b) an application for registration under Subsection B or C of Section 7 or for a permit under Section 10 has been filed with the Commissioner; and

(4) if registration has not become effective under Subsection B or C of Section 7 or a permit has not been granted under Section 10, the offer prominently states on the first page of a written or printed offer or as a preface to any pictorial or broadcast offer either:

(a)

INFORMATIONAL ADVERTISING ONLY.

THE SECURITIES HEREIN DESCRIBED HAVE NOT BEEN QUALIFIED OR REGISTERED FOR SALE IN TEXAS. ANY REPRESENTATION TO THE

CONTRARY OR CONSUMMATION OF SALE OF THESE SECURITIES IN TEXAS PRIOR TO QUALIFICATION OR REGISTRATION THEREOF IS A CRIMINAL OFFENSE.

or

(b) other language required by the United States Securities and Exchange Commission that in the Commissioner's opinion will inform investors that the securities may not yet be sold; and

(5) the person making or distributing the offer in this State;

(a) has not received notice in writing of an order prohibiting the offer under Subsection A or B of Section 23, or

(b) has received such notice but the order is no longer in effect; and

(6) payment is not accepted from the offeree and no contract of sale is made before registration is effective under Subsection B or C of Section 7 or a permit is granted under Section 10.

B. Permitted Oral Offers. An oral offer (not broadcast, i.e., not disseminated by radio, television, recorded telephone presentation, or other mass media) to sell a security may be made in this State in person, by telephone, or by other direct individual communication if:

(1) the person making the offer in this State is a registered dealer or a registered agent [~~salesman~~] of a registered dealer, as required by this Act; and

(2) either:

(a) the security is registered under Subsection B or C of Section 7 or a permit has been granted for the security under Section 10, or

(b) an application for registration under Subsection B or C of Section 7 or for a permit under Section 10 has been filed with the Commissioner; and

(3) the person making or distributing the offer in this State:

(a) has not received notice in writing of an order prohibiting the offer under Subsection A or B of Section 23, or

(b) has received such notice but the order is no longer in effect; and

(4) payment is not accepted from the offeree and no contract of sale is made before registration is effective under Subsection B or C of Section 7 or before a permit is granted under Section 10.

SECTION 2.18. Section 26, The Securities Act (Article 581-26, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 26. NOTICES BY REGISTERED MAIL. Any notice required by this Act shall be sufficient if sent by registered or certified mail unless otherwise specified in this Act, addressed to a person [~~the dealer, agent or salesman, as the case may be,~~] at the address designated in any filings submitted by the person to the Commissioner or the person's last known address [~~the application for registration~~]. A [~~All testimony taken at any hearing before the Commissioner shall be reported stenographically and a~~] full and complete record shall be kept of all proceedings had before the Commissioner on any hearing or investigation.

SECTION 2.19. Section 34, The Securities Act (Article 581-34, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 34. ACTIONS FOR COMMISSION; ALLEGATIONS AND PROOF OF COMPLIANCE. No person or company shall bring or maintain any action in the courts of this state for collection of a commission or compensation for services rendered in the sale or purchase of securities, as that term is defined in this Act, without alleging and proving that such person or company was duly registered under the provisions of this Act (or duly exempt from such registration pursuant to rules adopted under Section 12C [~~12B~~] of this Act) and the securities so sold were duly registered under the provisions of this Act at the time the alleged cause of action arose; provided, however, that this section shall not apply to any company or person that rendered services in connection with any transaction exempted by Section 5 of this Act or by any rule promulgated by the Board pursuant to Subsection T of Section 5 of this Act if the company or person was not required to be registered by the terms of the exemption.

SECTION 2.20. Section 35, The Securities Act (Article 581-35, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 35. FEES. The Commissioner or Board shall charge and collect the following fees and shall daily pay all fees received into the State Treasury:

A. For the filing of any original application of a dealer or investment adviser or for the submission of a notice filing for a federal covered investment adviser, Seventy-five Dollars (\$75.00), and for the filing of any renewal application of a dealer or investment adviser or for the submission of a renewal notice filing for a federal covered investment adviser, Forty Dollars (\$40.00);

B. For the filing of any original application for each agent, officer, or investment adviser representative or for the submission of a notice filing for each representative of a federal covered investment adviser [~~salesman~~], Thirty-five Dollars (\$35.00), and for the filing of any renewal application for each agent, officer, or investment adviser representative or for the submission of a renewal notice filing for each representative of a federal covered investment adviser [~~salesman~~], Twenty Dollars (\$20.00);

C. For any filing to amend the registration certificate of a dealer or investment adviser or evidence of registration of an agent or investment adviser representative [~~a salesman~~], issue a duplicate certificate or evidence of registration, or register a branch office, Twenty-five Dollars (\$25.00);

D. For the filing of any original, amended or renewal application to sell or dispose of securities, Ten Dollars (\$10.00);

E. For the examination of any original or amended application filed under Subsection A, B, or C of Section 7 of this Act, regardless of whether the application is denied, abandoned, withdrawn, or approved, a fee of one-tenth (1/10) of one percent (1%) of the aggregate amount of securities described and proposed to be sold to persons located within this state based upon the price at which such securities are to be offered to the public;

F. For certified copies of any papers filed in the office of the Commissioner, the Commissioner shall charge such fees as are reasonably related to costs; however, in no event shall such fees be more than those which the Secretary of State is authorized to charge in similar cases;

G. For the filing of any application for approval of a stock exchange so that securities fully listed thereon will be exempt, a fee of Ten Thousand Dollars (\$10,000.00);

H. For the filing of a request to take the Texas Securities Law Examination, Thirty-five Dollars (\$35.00);

I. For the filing of an initial notice required by the Commissioner to claim a secondary trading exemption, a fee of Five Hundred Dollars (\$500.00), and for the filing of a secondary trading exemption renewal notice, a fee of Five Hundred Dollars (\$500.00);

J. For the filing of an initial notice required by the Commissioner to claim a limited offering exemption, a fee of one-tenth (1/10) of one percent (1%) of the aggregate amount of securities described as being offered for sale, but in no case more than Five Hundred Dollars (\$500.00); and

K. For an interpretation by the Board's general counsel of this Act or a rule adopted under this Act, a fee of One Hundred Dollars (\$100.00), except that an officer or employee of a governmental entity and the entity that the officer or employee represents are exempt from the fee under this subsection when the officer or employee is conducting official business of the entity.

SECTION 2.21. Section 41(a), The Securities Act (Article 581-41, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Each of the following fees imposed by or under another section of this Act is increased by \$200:

(1) fee for filing any original application of a dealer or investment adviser or for submitting a notice filing for a federal covered investment adviser;

(2) fee for filing any renewal application of a dealer or investment adviser or for submitting a renewal notice filing for a federal covered investment adviser;

(3) fee for filing any original application for agent, officer, or investment adviser representative or for submitting a notice filing for an investment adviser representative of a federal covered investment adviser [or salesman]; and

(4) fee for filing any renewal application for agent, officer, or investment adviser representative or for submitting a renewal notice filing for an investment adviser representative of a federal covered investment adviser [salesman].

SECTION 2.22. Section 42, The Securities Act (Article 581-42, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 42. REDUCED FEES. A. The Board by rule may adopt reduced fees, under Sections 35 and 41 of this Act, for original and renewal applications of dealers, agents, officers, investment advisers, or investment adviser representatives [salesmen] who have assumed inactive status as defined by the Board.

B. The Board by rule may adopt reduced fees, under Sections 35 and 41 of this Act, as appropriate to accommodate a small business [for persons] required by this Act to register in two or more of the following capacities:

(1) dealer;

(2) agent [~~or salesman~~]; [~~or~~]

(3) investment adviser;

(4) investment adviser representative; or

(5) officer.

C. Notwithstanding Sections 35 and 41 of this Act, a person shall pay only one fee required under those sections to engage in business in this state concurrently for the same person or company as:

(1) a dealer and an investment adviser; or

(2) an agent and investment adviser representative.

SECTION 2.23. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.137 to read as follows:

Sec. 411.137. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE SECURITIES BOARD. (a) The securities commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a certificate of registration under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(2) a holder of a certificate of registration under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(3) an applicant for employment by the State Securities Board; or

(4) an employee of the State Securities Board.

(b) Criminal history record information obtained by the securities commissioner under this section may not be released by any person or agency except on court order, unless the information is entered into evidence by the State Securities Board or a court at an administrative proceeding or a civil or criminal action under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes).

SECTION 2.24. Section 16, The Securities Act (Article 581-16, Vernon's Texas Civil Statutes), is repealed.

SECTION 2.25. The changes in law made by this Act apply only to a fee that becomes due on or after the effective date of this Act. A fee that becomes due before the effective date of this Act is governed by the law in effect on the date the fee is due, and the former law is continued in effect for that purpose.

ARTICLE 3. ENFORCEMENT PROVISIONS

SECTION 3.01. The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 13-1 to read as follows:

Sec. 13-1. INSPECTION. A. The Commissioner, without notice, may inspect a registered dealer or registered investment adviser as necessary to ensure compliance with this Act and Board rules.

B. The Commissioner, during regular business hours, may:

(1) enter the business premises of a registered dealer or registered investment adviser; and

(2) examine and copy books and records pertinent to the inspection.

C. During the inspection, the dealer or investment adviser shall:

(1) provide to the Commissioner or the Commissioner's authorized representative immediate and complete access to the person's office, place of business, files, safe, and any other location in which books and records pertinent to the inspection are located; and

(2) allow the Commissioner or the Commissioner's authorized representative to make photostatic or electronic copies of books or records subject to inspection.

D. A dealer or investment adviser may not charge a fee for copying information under this section.

E. Information obtained under this section and any intra-agency or interagency notes, memoranda, reports, or other communications consisting of advice, analyses, opinions, or recommendations that are made in connection with the inspection are confidential and may not be disclosed to the public or released by the Commissioner except to the same extent provided for the release or disclosure of confidential documents or other information made or obtained in connection with an investigation under Section 28 of this Act.

SECTION 3.02. Section 14, The Securities Act (Article 581-14, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14. DENIAL, SUSPENSION OR REVOCATION OF REGISTRATION AS DEALER, AGENT, INVESTMENT ADVISER, OR INVESTMENT ADVISER REPRESENTATIVE [~~SALESMAN~~]. A. The Commissioner may deny, revoke, or suspend a registration issued under this Act, place on probation a dealer, agent, investment adviser, or investment adviser representative [~~salesman~~] whose registration has been suspended under this Act, or reprimand a person registered under this Act if the person:

(1) has been convicted of any felony;

(2) has been convicted of any misdemeanor which directly relates to the person's securities-related duties and responsibilities;

(3) has engaged in any inequitable practice in the sale of securities or in rendering services as an investment adviser, or in any fraudulent business practice;

(4) is a dealer or investment adviser who is insolvent;

(5) meets one of the following criteria:

(a) is a dealer who is selling or has sold securities in this state through an agent [~~a salesman~~] other than a registered agent;

(b) is an investment adviser who is engaging or has engaged in rendering services as an investment adviser in this state through a representative who is not registered to perform services for that investment adviser as required by this Act;

(c) [~~salesman, or;~~] is an agent [~~a salesman~~] who is selling or has sold securities in this state for a dealer, issuer or controlling person with knowledge that such dealer, issuer or controlling person has not complied with the provisions of this Act; or

(d) is an investment adviser representative who is rendering or has rendered services as an investment adviser for an investment adviser in this state whom the representative is not or was not registered to represent as required by this Act;

(6) has violated any of the provisions of this Act or a rule of the Board;

(7) has made any material misrepresentation to the Commissioner or Board in connection with any information deemed necessary by the Commissioner or Board to determine a dealer's or investment adviser's financial responsibility or a dealer's, agent's, investment adviser's or investment adviser representative's [~~or salesman's~~] business repute or qualifications, or has refused to furnish any such information requested by the Commissioner or Board;

(8) became registered as a dealer, ~~agent, investment adviser, or investment adviser representative~~ ~~[or salesman]~~ after August 23, 1963, and has not complied with a condition imposed by the Commissioner under Section 13-D;

(9) is the subject of any of the following orders that are currently effective and were issued within the last five years:

(a) an order by the securities agency or administrator of any ~~[another]~~ state, by the financial regulatory authority of a foreign country, or by the Securities and Exchange Commission, entered after notice and opportunity for hearing, denying, suspending, or revoking the person's license as a dealer, agent, ~~[salesman, or]~~ investment adviser, or investment adviser representative or the substantial equivalent of those terms;

(b) a suspension or expulsion from membership in or association with a member of a self-regulatory organization;

(c) a United States Postal Service fraud order;

(d) an order by the securities agency or administrator of any ~~[another]~~ state, the financial regulatory authority of a foreign country, the Securities and Exchange Commission, or by the Commodity Futures Trading Commission, finding, after notice and opportunity for hearing, that the person engaged in acts involving fraud, deceit, false statements or omissions, or wrongful taking of property;

(e) an order by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act;

(10) is subject to any order, judgment, or decree entered by any court of competent jurisdiction which permanently restrains or enjoins such person from engaging in or continuing any conduct, action, or practice in connection with any aspect of the purchase or sale of securities or the rendering of security investment advice; or

(11) has violated any provision of any order issued by the Commissioner or has violated any provision of any undertaking or agreement with the Commissioner.

~~B. [The Commissioner shall keep an information file about each complaint filed with the Commissioner or Board relating to a person registered under this Act.~~

~~[C. If a written complaint is filed with the Commissioner or Board relating to a person registered under this Act, the Commissioner, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.~~

~~[D:]~~ If the Commissioner proposes to suspend or revoke a person's registration, the person is entitled to a hearing before the Commissioner or a hearings officer as now or hereafter required by law. Proceedings for the suspension or revocation of a registration are governed by Chapter 2001, Government Code.

~~C. [E:]~~ This section does not affect the confidentiality of investigative records maintained by the Commissioner or Board.

SECTION 3.03. Section 23, The Securities Act (Article 581-23, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 23. CEASE AND DESIST ORDERS; CEASE PUBLICATION ORDERS; LIST OF SECURITIES OFFERED.

Anything in this Act to the contrary notwithstanding,

A. If it appears to the commissioner at any time that the sale or proposed sale or method of sale of any securities, whether exempt or not, is a fraudulent practice or would not be in compliance with this Act or would tend to work a fraud on any purchaser thereof or would not be fair, just or equitable to any purchaser thereof, the commissioner may hold a hearing on a date determined by the commissioner within 30 days after the date of receipt of actual notice by, or notice by registered or certified mail to the person's last known address is given to, the issuer, the registrant, the person on whose behalf such securities are being or are to be offered, or any person acting as a dealer or agent in violation of this Act. If the commissioner shall determine at such hearing that such sale would not be in compliance with the Act, is a fraudulent practice, or would tend to work a fraud on any purchaser thereof or would not be fair, just or equitable to any purchaser thereof, the commissioner may issue a written cease and desist order, prohibiting or suspending the sale of such securities or denying or revoking the registration of such securities, [or] prohibiting an unregistered person from acting as a dealer or an agent, or prohibiting the fraudulent conduct. No dealer or[-] agent [or salesman] shall thereafter knowingly sell or offer for sale any security named in such cease and desist order.

B. If it appears to the Commissioner at any time that an investment adviser or investment adviser representative is engaging or is likely to engage in fraud or a fraudulent practice with respect to rendering services as an investment adviser or investment adviser representative or that a person is acting as an investment adviser or investment adviser representative in violation of this Act, the Commissioner may hold a hearing not later than the 30th day after the date on which the person receives actual notice or is provided notice by registered or certified mail, return receipt requested, to the person's last known address. After the hearing, the Commissioner shall issue or decline to issue a cease and desist order. An order issued under this subsection must:

(1) require the investment adviser or investment adviser representative to immediately cease and desist from the fraudulent conduct; or

(2) prohibit an unregistered or other unauthorized person who is not exempt from the registration or notice filing requirements of this Act from acting as an investment adviser or investment adviser representative in violation of this Act.

C. If it appears to the Commissioner at any time that an offer contains any statement that is materially false or misleading or is otherwise likely to deceive the public, the Commissioner may issue a cease publication order. No person shall make an offer prohibited by such cease publication order.

D. ~~C.~~ The commissioner may, in the exercise of reasonable discretion hereunder, at any time, require a dealer to file with the commissioner a list of securities which he has offered for sale or has advertised for sale within this State during the preceding six months, or which he is at the time offering for sale or advertising, or any portion thereof.

SECTION 3.04. Subsection A, Section 23-1, The Securities Act (Article 581-23-1 et seq., Vernon's Texas Civil Statutes), is amended to read as follows:

A. After giving notice and opportunity for a hearing, the Commissioner may issue an order which assesses an administrative fine against any person or company found to have:

(1) engaged in fraud or a fraudulent practice in connection with:

(A) the offer for sale or sale of a security; or

(B) the rendering of services as an investment adviser or investment adviser representative;

(2) made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public; or

(3) engaged in an act or practice that violates [~~violated any provision of~~] this Act or a[;] Board rule[;] or [Board] order.

SECTION 3.05. The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 23-2 to read as follows:

Sec. 23-2. EMERGENCY CEASE AND DESIST ORDER. A. On the Commissioner's determination that the conduct, act, or practice threatens immediate and irreparable public harm, the Commissioner may issue an emergency cease and desist order to a person whom the Commissioner reasonably believes:

(1) is engaging in or is about to engage in fraud or a fraudulent practice in connection with:

(A) the offer for sale or sale of a security; or

(B) the rendering of services as an investment adviser or investment adviser representative;

(2) has made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public; or

(3) is engaging or is about to engage in an act or practice that violates this Act or a Board rule.

B. The order must:

(1) be sent on issuance to each person affected by the order by personal delivery or registered or certified mail, return receipt requested, to the person's last known address;

(2) state the specific charges and require the person to immediately cease and desist from the unauthorized activity; and

(3) contain a notice that a request for hearing may be filed under this section.

C. Unless a person against whom the emergency order is directed requests a hearing in writing before the 31st day after the date it is served on the person, the emergency order is final and nonappealable as to that person. A request for a hearing must:

(1) be in writing and directed to the Commissioner; and

(2) state the grounds for the request to set aside or modify the order.

D. On receiving a request for a hearing, the Commissioner shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. The hearing must be held not later than the 10th day after the date the Commissioner receives the request for a hearing unless the parties agree to a later hearing date. At the hearing, the Commissioner has the burden of proof and must present evidence in support of the order.

E. After the hearing, the Commissioner shall affirm, modify, or set aside in whole or part the emergency order. An order affirming or modifying the emergency order is immediately final for purposes of enforcement and appeal.

F. An emergency order continues in effect unless the order is stayed by the Commissioner. The Commissioner may impose any condition before granting a stay of the order.

SECTION 3.06. Subsection A, Section 24, The Securities Act (Article 581-24, Vernon's Texas Civil Statutes), is amended to read as follows:

A. If any person or company should take exception to the action of the Commissioner [~~under Sections 15 or 18;~~] in failing or refusing to register and issue certificate for a dealer or investment adviser or evidence of registration for an investment adviser representative or agent under Section 15 or 18 of this Act, in issuing an order [salesman;] under Section 23 or 23-2 of this Act [in issuing an order against the sale of securities or the use of materials therein], or in any other particular where this Act specifies no other procedure, the complaining party may request a hearing before the Commissioner or before a hearings officer as now or hereafter required by law.

SECTION 3.07. Section 25, The Securities Act (Article 581-25, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 25. REVOCAION OF REGISTRATION OF ANY DEALER, AGENT, INVESTMENT ADVISER, OR INVESTMENT ADVISER REPRESENTATIVE [SALESMAN]. The revocation of a dealer's or investment adviser's registration shall constitute a revocation of the registration of any agent [~~or salesman~~] of the dealer or any investment adviser representative of the investment adviser and notice of its operation on such agent or investment adviser representative [salesman] shall be forthwith sent by the Commissioner to each of such agents or investment adviser representatives [salesmen]. All registrations and evidences of registration revoked shall at once be surrendered to the Commissioner upon request.

SECTION 3.08. Subsections A and B, Section 25-1, The Securities Act (Article 581-25-1, Vernon's Texas Civil Statutes), are amended to read as follows:

A. Whenever it shall appear to the commissioner, either upon complaint or otherwise, that:

(1) any person or company acting as a dealer, agent, investment adviser, investment adviser representative [salesman], or issuer (as defined in Section 4 of this Act), or an affiliate of a dealer, agent, investment adviser, investment adviser representative [salesman], or issuer, whether or not required to be registered by the commissioner as in this Act provided, shall have engaged in any act, transaction, practice, or course of business declared by Section 32 of this Act to be a fraudulent practice;

(2) such person or company shall have acted as a dealer, agent, investment adviser, investment adviser representative [salesman], or issuer or an affiliate of a dealer, agent, investment adviser, investment adviser representative [salesman], or issuer in connection with such fraudulent practice; and

(3) the appointment of a receiver for such person or company, or the assets of such a person or company is necessary in order to conserve and protect the assets of such person or company for the benefit of customers,

security holders, and other actual and potential claimants of such person or company the commissioner may request the attorney general to bring an action for the appointment of a receiver for such person or company or the assets of such person or company.

B. Upon request by the commissioner pursuant to Subsection A of this Section 25-1, and if it appears to the attorney general that the facts enumerated in Paragraphs (1) through (3) of Subsection A of this Section 25-1 exist with respect to any person or company, the attorney general may bring an action in the name and on behalf of the State of Texas for the appointment of a receiver for such person or company. The facts set forth in the petition for such relief shall be verified by the commissioner upon information and belief. Such action may be brought in a district court of any county wherein the fraudulent practice complained of has been committed in whole or part, or of any county wherein any defendant with respect to whom appointment of a receiver is sought has its principal place of business, and such district court shall have jurisdiction and venue of such action; this provision shall be superior to any other provision of law fixing jurisdiction or venue with regard to suits for receivership. In any such action the attorney general may apply for and on due showing be entitled to have issued the court's subpoena requiring the forthwith appearance of any defendant and his employees, investment adviser representatives [salesmen], or agents and the production of documents, books, and records as may appear necessary for any hearing, to testify and give evidence concerning matters relevant to the appointment of a receiver.

SECTION 3.09. Section 28, The Securities Act (Article 581-28, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 28. INVESTIGATIONS, INVESTIGATORY MATERIALS, AND REGISTRATION RELATED MATERIALS. A. ~~[Subpoenas or Other Process in]~~ Investigations by Commissioner. The Commissioner shall conduct investigations as the Commissioner considers necessary to prevent or detect the violation of this Act or a Board rule or order. For this purpose, the Commissioner may require, by subpoena or summons issued by the Commissioner, the attendance and testimony of witnesses and the production of all [any books, accounts, records, papers and correspondence or other] records, whether maintained by electronic or other means, relating to any matter which the Commissioner has authority by this Act to consider or investigate, and[. For this purpose the Commissioner] may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence; provided, however, that all information of every kind and nature received in connection with an investigation and all internal notes, memoranda, reports, or communications made in connection with an investigation [contained therein] shall be treated as confidential by the Commissioner and shall not be disclosed to the public except under order of court for good cause shown. ~~[However, except for good cause the order may not extend to a record or communication received from other law enforcement or regulatory agencies or to the internal notes, memoranda, reports, or communications made in connection with a matter that the Commissioner has the authority by this Act to consider or investigate.]~~ Nothing in this section shall be interpreted to prohibit or limit the publication of rulings or decisions of the Commissioner nor shall this limitation apply if disclosure is made, in the discretion of the

Commissioner, as part of an administrative proceeding or a civil or criminal action to enforce this Act [~~to hearings provided for in Sections 24 and 25 of this Act~~]. In case of disobedience of any subpoena, or of the contumacy of any witness appearing before the Commissioner, the Commissioner may invoke the aid of the District Court within whose jurisdiction any witness may be found, and such court may thereupon issue an order requiring the person subpoenaed to obey the subpoena or give evidence, or produce books, accounts, records, papers, and correspondence touching the matter in question. Any failure to obey such order of the court may be punished by such court as contempt thereof.

In the course of an investigation looking to the enforcement of this Act, or in connection with the application of a person or company for registration or to qualify securities, the Commissioner or Deputy Commissioner shall have free access to all records and reports of and to any department or agency of the state government. In the event, however, that the Commissioner or Deputy Commissioner should give out any information which the law makes confidential, the affected corporation, firm or person shall have a right of action on the official bond of the Commissioner or Deputy for the corporation's, firm's, or person's injuries, in a suit brought in the name of the state at the relation of the injured party.

The Commissioner may in any investigation cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed for depositions in civil actions under the laws of Texas.

Each witness required to attend before the Commissioner shall receive a fee, for each day's attendance, in an amount set by Board rule. All disbursements made in the payment of such fees shall be made in accordance with Board rule and shall be included in, and paid in the same manner as is provided for, the payment of other expenses incident to the administration and enforcement of this Act.

The sheriff's or constable's fee for serving the subpoena shall be the same as those paid the sheriff or constable for similar services. The fees, expenses and costs incurred at or in connection with any hearing may be imposed by the Commissioner upon any party to the record, or may be divided between any and all parties to the record in such proportions as the Commissioner may determine.

Any subpoena, summons, or other process issued by the Commissioner may be served, at the Commissioner's discretion, by the Commissioner, the Commissioner's authorized agent, a sheriff, or a constable.

The Commissioner may, at the Commissioner's discretion, disclose any confidential information in the Commissioner's possession to any governmental or regulatory authority or association of governmental or regulatory authorities approved by Board rule [~~to any quasi-governmental authority charged with overseeing securities activities which is approved by Board rule;~~] or to any receiver appointed under Section 25-1 of this Act. The disclosure does not violate any other provision of this Act or Chapter 552, Government Code.

B. Confidentiality of Certain Registration-Related and Other Materials. To the extent not already provided for by this Act, any intraagency or interagency notes, memoranda, reports, or other communications consisting of

advice, analyses, opinions, or recommendations shall be treated as confidential by the Commissioner and shall not be disclosed to the public, except under order of court, for good cause shown. The Commissioner may, at the Commissioner's discretion, disclose any confidential information in the Commissioner's possession to any governmental or regulatory authority or association of governmental or regulatory authorities approved by Board rule; ~~to any quasi-governmental authority charged with overseeing securities activities which is approved by Board rule;~~] or to any receiver appointed under Section 25-1 of this Act. The disclosure does not violate any other provision of this Act or Chapter 552, Government Code.

SECTION 3.10. Section 29, The Securities Act (Article 581-29, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 29. PENAL PROVISIONS. Any person who shall:

A. Sell, offer for sale or delivery, solicit subscriptions or orders for, dispose of, invite offers for, or who shall deal in any other manner in any security or securities without being a registered dealer ~~[or salesman]~~ or agent as in this Act provided shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$5,000 or imprisonment in the penitentiary for not less than two or more than 10 years, or by both such fine and imprisonment.

B. Sell, offer for sale or delivery, solicit subscriptions to and orders for, dispose of, invite orders for, or who shall deal in any other manner in any security or securities issued after September 6, 1955, unless said security or securities have been registered or granted a permit as provided in Section 7 of this Act, shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$5,000 or imprisonment in the penitentiary for not less than two or more than 10 years, or by both such fine and imprisonment.

C. In connection with the sale, offering for sale or delivery of, the purchase, offer to purchase, invitation of offers to purchase, invitations of offers to sell, or dealing in any other manner in any security or securities, whether or not the transaction or security is exempt under Section 5 or 6 of this Act, directly or indirectly:

(1) engage in any fraud or fraudulent practice;

(2) employ any device, scheme, or artifice to defraud;

(3) knowingly make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

(4) engage in any act, practice or course of business which operates or will operate as a fraud or deceit upon any person, is guilty of a felony and upon conviction shall be:

(a) imprisoned for not less than 2 or more than 10 years and fined not more than \$10,000, if the amount involved in the offense is less than \$10,000;

(b) imprisoned for not less than 2 or more than 20 years and fined not more than \$10,000, if the amount involved in the offense is \$10,000 or more but less than \$100,000; or

(c) imprisoned for life or for not less than 5 or more

than 99 years and fined not more than \$10,000, if the amount involved is \$100,000 or more.

D. ~~Knowingly violate a cease and desist order issued [Sell or offer for sale any security or securities named or listed in a notice in writing given him]~~ by the commissioner under the authority of Section 23A, 23B, or 23-2 of this Act shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$5,000 or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

E. Knowingly make or cause to be made, in any document filed with the commissioner or in any proceeding under this Act, whether or not such document or proceeding relates to a transaction or security exempt under the provisions of Sections 5 or 6 of this Act, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$5,000 or imprisonment in the penitentiary for not less than two or more than 10 years, or by both such fine and imprisonment.

F. Knowingly make any false statement or representation concerning any registration made under the provisions of this Act shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$5,000 or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

G. Make an offer of any security within this State that is not in compliance with the requirements governing offers set forth in Section 22 of this Act shall be deemed guilty of a felony, and upon conviction thereof, shall be sentenced to pay a fine of not more than \$5,000 or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

H. Knowingly make an offer of any security within this State prohibited by a cease publication order issued by the Commissioner under Section 23C [23B] of this Act shall be deemed guilty of a felony, and upon conviction thereof, shall be sentenced to pay a fine of not more than \$5,000 or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

SECTION 3.11. The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 29-3 to read as follows:

Sec. 29-3. CRIMINAL RESPONSIBILITY OF CORPORATION OR ASSOCIATION. A. In this section:

(1) "Association" and "corporation" have the meanings assigned by Section 1.07, Penal Code.

(2) "High managerial agent" has the meaning assigned by Section 7.21, Penal Code.

B. If conduct constituting an offense under Section 29 of this Act is performed by an agent acting in behalf of a corporation or association and within the scope of the person's office or employment, the corporation or association is criminally responsible for the offense only if its commission was authorized, requested, commanded, performed, or recklessly tolerated by:

(1) a majority of the governing board acting in behalf of the corporation or association; or

(2) a high managerial agent acting in behalf of the corporation or association and within the scope of the high managerial agent's office or employment.

C. It is an affirmative defense to prosecution of a corporation or association under Subsection B of this section that the high managerial agent having supervisory responsibility over the subject matter of the offense employed due diligence to prevent its commission.

SECTION 3.12. Section 30, The Securities Act (Article 581-30, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 30. CERTIFIED COPIES OF PAPERS FILED WITH COMMISSIONER AS EVIDENCE. Copies of all papers, instruments, or documents filed in the office of the Commissioner, certified by the Commissioner, shall be admitted to be read in evidence in all courts of law and elsewhere in this state in all cases where the original would be admitted in evidence; provided, that in any proceeding in the court having jurisdiction, the court may, on cause shown, require the production of the originals.

The Commissioner shall assume custody of all records of the Securities Divisions within the offices of the Secretary of State and of the Board of Insurance Commissioners, and henceforth these prior records shall be proven under certificate of the Commissioner.

In any prosecution, action, suit or proceeding before any of the several courts of this state based upon or arising out of or under the provisions of this Act, a certificate under the state seal, duly signed by the Commissioner, showing compliance or non-compliance with the provisions of this Act respecting compliance or non-compliance with the provisions of this Act by any dealer, agent, investment adviser, or investment adviser representative [salesman], shall constitute prima facie evidence of such compliance or of such non-compliance with the provisions of this Act, as the case may be, and shall be admissible in evidence in any action at law or in equity to enforce the provisions of this Act.

SECTION 3.13. Subsection A, Section 32, The Securities Act (Article 581-32, Vernon's Texas Civil Statutes), is amended to read as follows:

A. Whenever it shall appear to the Commissioner either upon complaint or otherwise, that any person has engaged or is about to engage in fraud or a fraudulent practice in connection with the sale of a security, has engaged or is about to engage in fraud or a fraudulent practice in the rendering of services as an investment adviser or investment adviser representative, has made an offer containing a statement that is materially misleading or is otherwise likely to deceive the public, or is engaging or is about to engage in an act or practice that violates this Act or a Board rule or order [in the issuance, sale, promotion, negotiations, advertisement or distribution of any securities within this state, including any security embraced in the subsections of Section 6, and including any transaction exempted under the provisions of Section 5, any person or company who shall have employed or is about to employ any device, scheme or artifice to defraud or to obtain money or property by means of any false pretense, representation or promise, or that any such person or company shall

~~have made, makes or attempts to make in this state fictitious or pretended purchases or sales of securities or shall have engaged in or is about to engage in any practice or transaction or course of business relating to the purchase or sale of securities which is in violation of law or which is fraudulent or which has operated or which would operate as a fraud upon the purchaser, any one or all of which devices, schemes, artifices, fictitious or pretended purchases, or sales of securities, practices, transactions and courses of business are hereby declared to be and are hereafter referred to as fraudulent practices; or that any person or company is acting as dealer or salesman within this state without being duly registered as such dealer or salesman as provided in this Act, the Commissioner and Attorney General may investigate, and whenever he shall believe from evidence satisfactory to him that any such person or company has engaged in, is engaged in, or is about to be engaged in any of the practices or transactions heretofore referred to as and declared to be fraudulent practices, or is selling or offering for sale any securities in violation of this Act or is acting as a dealer or salesman without being duly registered as provided in this Act], the Attorney General may, on request by the Commissioner, and in addition to any other remedies, bring action in the name and on behalf of the State of Texas against such person or company and any person who, with intent to deceive or defraud or with reckless disregard for the truth or the law, has materially aided, is materially aiding, or is about to materially aid such person and any other person or persons heretofore concerned in or in any way participating in or about to participate in such acts or [fraudulent] practices [~~or acting in such violation of this Act~~], to enjoin such person or company and such other person or persons from continuing such acts or [fraudulent] practices [~~or engaging therein~~] or doing any act or acts in furtherance thereof. The Commissioner shall verify, on information and belief, the facts contained in an application for injunction under this section [or in violation of this Act]. In any such court proceedings, the Attorney General may apply for and on due showing be entitled to have issued the court's subpoena requiring the forthwith appearance of any defendant and ~~the defendant's [his] employees;~~ salesmen] or agents and the production of documents, books and records as may appear necessary for the hearing of such petition, to testify and give evidence concerning the acts or conduct or things complained of in such application for injunction. The District Court of any county, wherein it is shown that the acts complained of have been or are about to be committed, or a district court in Travis County shall have jurisdiction of any action brought under this section, and this provision shall be superior to any provision fixing the jurisdiction or venue with regard to suits for injunction. No bond for injunction shall be required of the Commissioner or Attorney General in any such proceeding.~~

SECTION 3.14. The heading of Section 33, The Securities Act (Article 581-33, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 33. CIVIL LIABILITY WITH RESPECT TO ISSUANCE OR SALE OF A SECURITY [LIABILITIES].

SECTION 3.15. Subsection L, Section 33, The Securities Act (Article 581-33, Vernon's Texas Civil Statutes), is amended to read as follows:

L. Waivers Void. A condition, stipulation, or provision binding a buyer or seller of a security or a purchaser of services rendered by an investment

adviser or investment adviser representative to waive compliance with a provision of this Act or a rule or order or requirement hereunder is void.

SECTION 3.16. Subsection A, Section 33, The Securities Act (Article 581-33, Vernon's Texas Civil Statutes), is amended to read as follows:

A. Liability of Sellers. (1) Registration and Related Violations. A person who offers or sells a security in violation of Section 7, 9 (or a requirement of the Commissioner thereunder), 12, 23C [~~23B~~], or an order under 23A or 23-2 of this Act is liable to the person buying the security from him, who may sue either at law or in equity for rescission or for damages if the buyer no longer owns the security.

(2) Untruth or Omission. A person who offers or sells a security (whether or not the security or transaction is exempt under Section 5 or 6 of this Act) by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, is liable to the person buying the security from him, who may sue either at law or in equity for rescission, or for damages if the buyer no longer owns the security. However, a person is not liable if he sustains the burden of proof that either (a) the buyer knew of the untruth or omission or (b) he (the offeror or seller) did not know, and in the exercise of reasonable care could not have known, of the untruth or omission. The issuer of the security (other than a government issuer identified in Section 5M) is not entitled to the defense in clause (b) with respect to an untruth or omission (i) in a prospectus required in connection with a registration statement under Section 7A, 7B, or 7C, or (ii) in a writing prepared and delivered by the issuer in the sale of a security.

SECTION 3.17. The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 33-1 to read as follows:

Sec. 33-1. CIVIL LIABILITY OF INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES. A. Liability of Investment Advisers and Investment Adviser Representatives. (1) An investment adviser or investment adviser representative who renders services as an investment adviser in violation of Section 12 or an order under Section 23B or 23-2 of this Act is liable to the purchaser, who may sue at law or in equity, for damages in the amount of any consideration paid for the services.

(2) Except as provided by Subsection C of this section, an investment adviser or investment adviser representative who commits fraud or engages in a fraudulent practice in rendering services as an investment adviser is liable to the purchaser, who may sue at law or in equity, for damages.

B. Damages. In damages under Subsection A(2) of this section, the purchaser is entitled to recover:

(1) the amount of any consideration paid for the services, less the amount of any income the purchaser received from acting on the services;

(2) any loss incurred by the person in acting on the services provided by the adviser or representative;

(3) interest at the legal rate for judgments accruing from the date of the payment of consideration; and

(4) to the extent the court considers equitable, court costs and reasonable attorney's fees.

C. Untruth or Omission. An investment adviser or investment adviser representative who in rendering services as an investment adviser makes a false statement of a material fact or omits to state a material fact necessary in order to make the statement made, in light of the circumstances under which the statement is made, not misleading, may not be found liable under Subsection A(2) of this section if the adviser or representative proves:

(1) the purchaser knew of the truth or omission; or

(2) the adviser or representative did not know, and in the exercise of reasonable care could not have known, of the untruth or omission.

D. Statute of Limitations. (1) A person may not sue under Subsection A(1) of this section more than three years after the violation occurred.

(2) A person may not sue under Subsection A(2) of this section more than five years after the violation occurs or more than three years after the person knew or should have known, by the exercise of reasonable diligence, of the occurrence of the violation.

E. Liability of Control Persons and Assistants. (1) A person who directly or indirectly controls an investment adviser is jointly and severally liable with the investment adviser under this section, and to the same extent as the investment adviser, unless the controlling person sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which liability is alleged to exist.

(2) A person who directly or indirectly with intent to deceive or defraud or with reckless disregard for the truth or the law materially aids an investment adviser in conduct for which a cause of action is authorized by this section is jointly and severally liable with the investment adviser in an action to recover damages under this section.

SECTION 3.18. (a) A change in law made by this Act that applies to a criminal or civil penalty applies only to an offense committed or a violation that occurs on or after the effective date of this Act. For the purposes of this Act, an offense is committed or a violation occurs before the effective date of this Act if any element of the offense or violation occurs before that date.

(b) An offense committed or violation that occurs before the effective date of this Act is covered by the law in effect when the offense was committed or the violation occurred, and the former law is continued in effect for that purpose.

ARTICLE 4. CONFORMING AMENDMENTS

SECTION 4.01. Section 54.6385, Education Code, is amended to read as follows:

Sec. 54.6385. EXEMPTION FROM SECURITIES LAWS. The registration requirements of The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) do not apply to the sale of a prepaid tuition contract by the board or by a registered securities dealer or registered investment adviser.

SECTION 4.02. Section 153.117(a), Finance Code, as amended by Chapters 62, 344, and 356, Acts of the 76th Legislature, Regular Session, 1999, is reenacted and amended to read as follows:

(a) The following persons are not required to be licensed under this chapter:

(1) a federally insured financial institution, as that term is defined by Section 201.101 [~~as that term is defined by state law governing bank holding companies and interstate bank operations~~], that is organized under the laws of this state, another state, or the United States;

(2) a foreign bank branch or agency in the United States established under the federal International Banking Act of 1978 (12 U.S.C. Section 3101 et seq.), as amended;

(3) [(2)] a license holder under Chapter 152, except that the license holder is required to comply with the other provisions of this chapter to the extent the license holder engages in currency exchange, transportation, or transmission transactions;

(4) a person registered as a securities dealer or investment adviser under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(5) an attorney or title company that in connection with a real property transaction receives and disburses only domestic currency on behalf of a party to the transaction;

(6) a Federal Reserve bank;

(7) a clearinghouse exercising bank payment, collection, and clearing functions; or

(8) another person that the commissioner may exempt by rule if the commissioner finds that the licensing of the person is not necessary or appropriate to achieve the objectives of this chapter.

SECTION 4.03. Subchapter A, Chapter 182, Finance Code, is amended by adding Section 182.0211 to read as follows:

Sec. 182.0211. CONFORMANCE WITH SECURITIES ACT. For the purposes of Section 182.021(7), "salesman" includes "agent" and "advisor" includes "investment adviser" or "investment adviser representative."

SECTION 4.04. Section 2051.005, Occupations Code, is amended to read as follows:

Sec. 2051.005. CERTAIN PROFESSIONAL SERVICES EXEMPT. This chapter does not apply to a person who directly or indirectly recruits or solicits an athlete to enter into a contract with the person in which, for compensation, the person performs financial services for the athlete if:

(1) the person is licensed or registered by the state as:

(A) a dealer, agent, investment adviser, or investment adviser representative [~~agent, or securities salesperson~~];

(B) a real estate broker or salesperson;

(C) an insurance agent; or

(D) another professional;

(2) the financial services performed by the person are of a type that are customarily performed by a person licensed in that profession; and

(3) the person does not:

(A) recruit or solicit the athlete to enter into an agent contract or a professional services contract on behalf of the person, an affiliate, a related entity, or a third party; or

(B) procure, offer, promise, or attempt to obtain for the athlete employment with a professional sports team.

SECTION 4.05. Section 452.107(c), Transportation Code, is amended to read as follows:

(c) The executive committee may authorize the negotiation of a contract without competitive sealed bids or proposals if:

(1) the aggregate amount involved in the contract is \$25,000 or less;
 (2) the contract is for construction for which not more than one bid or proposal is received;

(3) the contract is for services or property for which there is only one source or for which it is otherwise impracticable to obtain competition;

(4) the contract is to respond to an emergency for which the public exigency does not permit the delay incident to the competitive process;

(5) the contract is for personal or professional services or services for which competitive bidding is precluded by law; or

(6) the contract, without regard to form and which may include bonds, notes, loan agreements, or other obligations, is for the purpose of borrowing money or is a part of a transaction relating to the borrowing of money, including:

(A) a credit support agreement, such as a line or letter of credit or other debt guaranty;

(B) a bond, note, debt sale or purchase, trustee, paying agent, remarketing agent, indexing agent, or similar agreement;

(C) an agreement with a securities dealer or investment adviser, broker, or underwriter; and

(D) any other contract or agreement considered by the executive committee to be appropriate or necessary in support of the authority's financing activities.

ARTICLE 5. EFFECTIVE DATE

SECTION 5.01. This Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2255** in Section 33-1, The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes, as added by Section 3.17 of the bill (page 33, between lines 3 and 4), by adding a new Subsection F to read as follows:

F. A remedy provided by this section is not exclusive of any other applicable remedy provided by law.

HB 2677 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2677, A bill to be entitled An Act relating to the right of certain municipalities to maintain local control over wages, hours, and other terms of employment of certain municipal employees.

On motion of Representative Bailey, the house concurred in the senate amendments to **HB 2677**.

Senate Committee Substitute

CSHB 2677, A bill to be entitled An Act relating to the right of certain municipalities to maintain local control over wages, hours, and other terms of employment of certain municipal employees.

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

SECTION 1. Chapter 143, Local Government Code, is amended by adding Subchapter K to read as follows:

**SUBCHAPTER K. LOCAL CONTROL OF MUNICIPAL
EMPLOYMENT MATTERS IN MUNICIPALITIES
WITH POPULATION OF 1.9 MILLION OR MORE**

Sec. 143.401. APPLICATION. (a) This subchapter applies only to a municipality with a population of 1.9 million or more.

(b) This subchapter does not apply to:

(1) firefighters or police officers who are covered by Subchapter H, I, or J or by Chapter 174; or

(2) an employee association in which those employees participate.

Sec. 143.402. DEFINITIONS. In this subchapter:

(1) "Association" means an organization in which municipal employees participate, that exists wholly or partly for the purpose of dealing with one or more public or private employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or working conditions affecting public employees, and whose members pay dues by means of an automatic payroll deduction.

(2) "Covered employee" means an employee of the municipality, excluding a department head and a firefighter or police officer covered by Subchapter H, I, or J or by Chapter 174.

(3) "Public employer" means any municipality or agency, board, commission, or political subdivision created and controlled by a municipality that is required to establish the wages, salaries, rates of pay, hours of employment, working conditions, and other terms of employment of public employees.

Sec. 143.403. GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES. (a) A municipality may not be denied local control over wages, salaries, rates of pay, hours of employment, other terms or conditions of employment, or other personnel issues on which the public employer and an association recognized as the sole and exclusive bargaining agent for all covered employees agree. A term on which the public employer and the association do not agree is governed by the applicable statutes, local ordinances, and civil service rules. An agreement between the public employer and an association must be reduced to writing. This subchapter does not require the public employer and the association to meet and confer or reach an agreement on any issue.

(b) A public employer and an association recognized under this subchapter as a sole and exclusive bargaining agent may meet and confer only if the association does not advocate the illegal right to strike by public employees.

(c) A municipal employee may not engage in a strike or organized work stoppage against this state or a political subdivision of this state. An employee who participates in a strike forfeits all civil service rights, reemployment rights, and other rights, benefits, or privileges the employee enjoys as a result of the employee's employment or previous employment with the municipality. This subsection does not affect the right of a person to cease employment if the person is not acting in concert with other employees.

Sec. 143.404. RECOGNITION OF ASSOCIATION. (a) A public employer may recognize an association that submits a petition signed by a majority of

the covered employees, excluding any department head and assistant department head in the rank or classification immediately below that of the department head, as the sole and exclusive bargaining agent for all of the covered employees.

(b) An association may submit a petition requesting an election to determine whether an association is the sole and exclusive representative of the covered employees. If the petition is signed by 30 percent of the covered employees and the public employer certifies to the municipality the number of employees signing the petition, there is a question of whether an association is the sole and exclusive representative of the covered employees that must be resolved by a fair election conducted according to procedures on which the parties agree. If the parties are unable to agree on election procedures, either party may request the American Arbitration Association to conduct the election and to certify the results. The association that receives a majority of the votes cast at the election is the sole and exclusive representative of the covered employees. Certification of the results of an election under this subsection resolves the question concerning representation. The association that submits the petition shall pay the costs of the election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit petitions signed by 30 percent or more of the covered employees, the associations shall share equally the costs of the election.

(c) The municipality shall designate a team to represent the public employer as its sole and exclusive bargaining agent.

Sec. 143.405. OPEN RECORDS REQUIRED. An agreement made under this subchapter is a public record for purposes of Chapter 552, Government Code. The agreement and any document prepared and used by the municipality in connection with the agreement are available to the public under the open records law, Chapter 552, Government Code, only after the agreement is ratified by the municipality's governing body. This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used by the municipality in connection with the agreement.

Sec. 143.406. ENFORCEABILITY OF AGREEMENT. (a) A written agreement made under this subchapter between a public employer and an association is binding on the public employer, the association, and employees covered by the agreement if:

(1) the municipality's governing body ratifies the agreement by a majority vote; and

(2) the applicable association ratifies the agreement by a majority vote of its members voting in an election by secret ballot.

(b) An agreement ratified as described by Subsection (a) may establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on interpretation of the agreement.

(c) The district court of the judicial district in which the municipality is located has full authority and jurisdiction on the application of either party aggrieved by an act or omission of the other party related to a right, duty, or obligation provided by a written agreement ratified as described by Subsection (a). The court may issue proper restraining orders, temporary and

permanent injunctions, or any other writ, order, or process, including a contempt order, that is appropriate to enforce the agreement.

Sec. 143.407. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

(a) An agreement under this subchapter supersedes a previous statute concerning wages, salaries, rates of pay, hours of employment, or other terms or conditions of employment to the extent of any conflict with the statute.

(b) An agreement under this subchapter preempts any contrary statute, executive order, local ordinance, or rule adopted by the state or a political subdivision or agent of the state, including a personnel board, a civil service commission, or a home-rule municipality.

(c) An agreement under this subchapter may not diminish or qualify any right, benefit, or privilege of an employee under this subchapter or other law unless approved by a majority vote by secret ballot of the members of the association recognized as a sole and exclusive bargaining agent.

Sec. 143.408. REPEAL OF AGREEMENT BY ELECTORATE. Not later than the 45th day after the date an agreement is ratified by both the municipality and the association, a petition signed by at least 10 percent of the qualified voters of the municipality may be presented to the municipal secretary calling an election for the repeal of the agreement. On receipt of the petition by the municipal secretary, the governing body shall reconsider the agreement and either repeal the agreement or call an election of the qualified voters to determine if they desire to repeal the agreement. The election shall be called for the next municipal election or a special election called by the governing body for that purpose. If at the election a majority of the votes are cast in favor of the repeal of the adoption of the agreement, the agreement is void. The ballot shall be printed to permit voting for or against the proposition: "Repeal of the adoption of the agreement ratified by the municipality and the _____ (municipal employee) association concerning wages, salaries, rates of pay, hours of employment, and other terms and conditions of employment."

Sec. 143.409. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES. An agreement may not interfere with the right of a member of an association to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Commission on Human Rights or the Equal Employment Opportunity Commission or to pursue affirmative action litigation.

SECTION 2. This Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2677** (Senate Committee Printing) as follows:

(1) In SECTION 1 of the bill, at the end of proposed Section 143.403(a), Local Government Code (page 1, line 53), add the following:
This subchapter does not authorize an agreement regarding pension or pension-related matters governed by Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), or a successor statute.

(2) In SECTION 1 of the bill, in proposed Section 143.407(a), Local Government Code (page 2, line 68), between "conditions of employment" and "to the" insert ", other than pension and pension-related matters,".

(3) In SECTION 1 of the bill, in proposed Section 143.407(b), Local Government Code (page 3, line 5), between "municipality" and the period insert ", other than a statute, order, ordinance, or rule regarding pension or pension-related matters".

POSTPONED BUSINESS

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

SB 454 ON SECOND READING (Alexander - House Sponsor)

SB 454, A bill to be entitled An Act relating to the collection and enforcement of tolls on certain toll roads and toll projects; providing for civil and criminal penalties.

SB 454 was read second time on May 9, postponed until May 16, and was again postponed until this time.

SB 454 was passed to third reading. (Heflin recorded voting no)

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, postponed until May 17, and was again postponed until this time.

Representative Dutton moved to postpone consideration of **CSSB 1783** until 10 a.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.

SB 515 was read second time on May 17 and postponed until this time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Dunnam, Representative Truitt offered the following committee amendment to **SB 515**:

Amend **SB 515**, as follows:

Amend SECTION 1, Sec. 672.007, by striking proposed Subsection (d) in its entirety.

Amend SECTION 1, Sec. 672.009, by striking proposed Subsection (d) in its entirety.

Amend SECTION 1, by adding a new Subsection 672.010 to read as follows:

Sec. 672.010. CIVIL LIABILITY FOR DISCLOSURE OF INFORMATION. Subject to the limits described in Section 101.023(b), Civil Practice and Remedies Code, a team organized pursuant to this chapter, or any member

thereof may be civilly liable for damages caused by the disclosure of information gathered pursuant to an investigation if such disclosure is made in violation of Section 672.007 and Section 672.009 of this chapter.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Truitt offered the following amendment to **SB 515**:

Amend **SB 515** as follows:

(1) In Section 672.003(a), Health and Safety Code, as added by SECTION 1 of the bill (House Committee Report, page 4, lines 8-10), strike "(1) providing assistance, direction, and coordination to the investigations of deaths from suicide, family violence, or abuse;" and renumber the subsequent subdivisions accordingly.

Amendment No. 2 was adopted without objection.

SB 515, as amended, was passed to third reading.

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.

SB 510 was read third time on May 17 and was postponed until this time.

Amendment No. 1

Representative G. Lewis offered the following amendment to **SB 510**:

Amend **SB 510** (House Committee Report) on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Section 252.043, Local Government Code, is amended to read as follows:

Sec. 252.043. AWARD OF CONTRACT. (a) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

(b) In determining the best value for the municipality, the municipality may consider:

(1) the purchase price;
(2) the reputation of the bidder and of the bidder's goods or services;
(3) the quality of the bidder's goods or services;
(4) the extent to which the goods or services meet the municipality's needs;

(5) the bidder's past relationship with the municipality;
(6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;

(7) the total long-term cost to the municipality to acquire the bidder's goods or services; and

(8) any other relevant factor that a private business entity would consider in selecting a bidder.

(c) Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

(d) The contract must be awarded to the lowest responsible bidder if the competitive sealed bidding requirement applies to the contract for construction of:

(1) highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction; or

(2) buildings or structures that are incidental to projects that are primarily civil engineering construction projects.

(e) If the competitive sealed bidding requirement applies to the contract for construction of a facility, as that term is defined by Section 271.111, the contract must be awarded to the lowest responsible bidder or awarded under the method described by Subchapter H, Chapter 271.

(f) The governing body may reject any and all bids.

(g) A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. This chapter does not change the common law right of a bidder to withdraw a bid due to a material mistake in the bid.

(h) [(t)] If the competitive sealed proposals requirement applies to the contract, the contract must be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in the request for proposals.

(i) This section does not apply to a contract for professional services, as that term is defined by Section 2254.002, Government Code.

SECTION _____. The change in law made by this Act to Section 252.043, Local Government Code, applies only to a contract awarded on or after the effective date of this Act.

Amendment No. 1 was adopted without objection.

SB 510, as amended, was passed.

MESSAGE FROM THE SENATE

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

SB 1053 ON SECOND READING

(Chavez, P. Moreno, Haggerty, Pickett, Najera, et al. - House Sponsors)

SB 1053, A bill to be entitled An Act relating to rates and expenditures under the Medicaid and state child health plan programs in the Texas-Mexico border region.

SB 1053 was read second time on May 10, postponed until May 15, postponed until May 16, and was again postponed until this time.

Representative Chavez moved to postpone consideration of **SB 1053** until 10 a.m. Monday, May 21.

The motion prevailed without objection.

**MAJOR STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 317 ON THIRD READING
(McCall - House Sponsor)**

SB 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 Deshotel offered the following amendment to **SB 317**:

Amend **SB 317** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS appropriately:

SECTION ___. (a) Subchapter C, Chapter 346, Finance Code, is amended by adding Section 346.206 to read as follows:

Sec. 346.206. CASH ADVANCE. In connection with a revolving credit account, a creditor shall apply a payment made on the account first to the unpaid balance of any cash advance made or issued with respect to the account.

(b) Section 346.206, Finance Code, as added by this section, applies only to a cash advance transaction made pursuant to an open-end account credit agreement under which credit card transactions are made that is entered into, amended, or renewed on or after the effective date of this section.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative S. Turner offered the following amendment to **SB 317**:

Amend **SB 317** on third reading by striking SECTION 24 of the bill as added by amendment no.1 on second reading and substituting it with the following:

SECTION 24. Insert a new Sec. 342.007, Finance Code to read as follows:

Sec. 342.009. CERTAIN ACTIVITIES PROHIBITED. No person shall assist a consumer in obtaining 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, at a rate of interest which otherwise would be prohibited by state law. Section 1.105, Business and Commerce Code, shall not apply to loans described under this section.

Amendment No. 2 was adopted without objection.

SB 317, as amended, was passed. (Elkins recorded present, not voting)

**MAJOR STATE CALENDAR
SENATE BILLS
SECOND READING**

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

**CSSB 309 ON SECOND READING
(Bosse - House Sponsor)**

CSSB 309, A bill to be entitled An Act relating to the application of the sunset review process to certain governmental entities.

Representative Bosse moved to postpone consideration of **CSSB 309** until 8 a.m. Monday, May 21.

The motion prevailed without objection.

**CSSB 312 ON SECOND READING
(Chisum - House Sponsor)**

CSSB 312, A bill to be entitled An Act relating to the review and functions of the Texas Water Development Board.

Amendment No. 1

Representatives Counts and Wise offered the following amendment to **CSSB 312**:

Amend **CSSB 312** (House committee printing) as follows:

(1) Between the enacting clause and SECTION 1 of the bill (page 1, between lines 4 and 5), insert the following SECTION and renumber the subsequent SECTIONS accordingly:

SECTION 1. The legislature finds that:

(1) economically distressed subdivisions commonly called colonias are found throughout those counties located within 50 miles of the international border of this state;

(2) a substantial number of homes in the economically distressed subdivisions lack an adequate potable water supply and sewer services, creating a serious and unacceptable health hazard from contagious and other serious illnesses and posing a clear and substantial threat not only to the environment of the border region but also to the environment of the entire state;

(3) although significant improvement has been made by this state and the political subdivisions of the border area in addressing the public health hazard created in those economically distressed subdivisions, many of those economically distressed subdivisions are located in isolated rural areas far from water or wastewater providers or are otherwise situated so as to make the provision of water or wastewater services by political subdivisions to those areas difficult or impossible using conventional capital improvement strategies;

(4) the lack of an adequate potable water supply and wastewater services, coupled with the location of those subdivisions, erodes the economic stability of the counties that contain those subdivisions and that depend on a healthy and safe environment for the residents of the subdivisions and counties;

(5) the economic stability of those counties is necessary for the mutual development of trade, transportation, and commerce in the border

region and affects not only the border region, but all regions of the state involved in those reciprocal economic activities;

(6) alternative capital improvement mechanisms are necessary to ensure that the maximum number of economically distressed subdivisions obtain adequate water or wastewater services to eliminate public health problems and encourage the development and diversification of the economy in those counties and the entire state;

(7) nonprofit organizations have succeeded in planning, platting, engineering, designing, and constructing water and wastewater projects to serve those inaccessible, economically distressed subdivisions using assistance from the residents immediately benefitting from the water or wastewater services, thus creating an alternative capital improvement mechanism with a proven record of success that deserves state support;

(8) many residents of colonias are motivated to improve their situation and have worked with nonprofit organizations on self-help projects to build their own infrastructure, ultimately saving on the total cost of water and wastewater projects; and

(9) creating a program to provide public funds to those nonprofit organizations for self-help projects will assist in the reduction of the public health problems created by the lack of adequate water and wastewater services and will encourage the development and diversification of the economy of the counties in which those subdivisions are located as well as throughout the entire state.

(2) Between SECTIONS 9 and 10 of the bill (page 10, between lines 7 and 8), insert the following appropriately numbered SECTION and renumber the subsequent SECTIONS accordingly:

SECTION _____. Section 15.008, Water Code, is amended to read as follows:

Sec. 15.008. GRANT STANDARDS. The law regarding uniform grants and contract management, Chapter 783, Government Code, [Uniform Grant and Contract Management Act of 1981 (Article 4413(32g), Vernon's Texas Civil Statutes)] does not apply to a contract under Subchapter F, H, [~~or~~] K, or P [~~of this chapter~~].

(3) In SECTION 10 of the bill (page 10, line 19), strike "and the rural" and substitute "the rural".

(4) In SECTION 10 of the bill, between "chapter" and the period (page 10, line 20), insert ", and the colonia self-help account created under Subchapter P of this chapter".

(5) In SECTION 11 of the bill (page 10, line 24), strike "or O" and substitute "O, or P".

(6) In SECTION 11 of the bill, between "fund" and "created" (page 10, line 25), insert "or account".

(7) Between SECTIONS 17 and 18 of the bill (page 23, between lines 3 and 4), insert the following appropriately numbered SECTION and renumber the subsequent SECTIONS accordingly:

SECTION _____. Chapter 15, Water Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. COLONIA SELF-HELP PROGRAM

Sec. 15.951. DEFINITIONS. In this subchapter:

(1) "Account" means the colonia self-help account.

(2) "Colonia" means a geographic area that:

(A) is an economically distressed area as defined by Section 17.921; and

(B) is located in a county any part of which is within 50 miles of an international border.

(3) "Program" means the colonia self-help program established under this subchapter.

(4) "Retail public utility" has the meaning assigned by Section 13.002.

(5) "Self-help project" means a project in which the people who will benefit from the project actively participate.

Sec. 15.952. CREATION OF ACCOUNT. (a) The colonia self-help account is an account in the general revenue fund that may be appropriated only for the purposes of this subchapter.

(b) The account consists of:

(1) money transferred by the legislature directly to the account;

(2) money transferred at the board's discretion from the fund;

(3) gifts, grants, or donations to the account; and

(4) interest earned on money credited to the account.

(c) Sections 403.095 and 404.071, Government Code, do not apply to the account.

Sec. 15.953. USE OF ACCOUNT. (a) The board may use funds in the account only to reimburse nonprofit organizations eligible under Section 15.954 for expenses incurred in a self-help project that results in the provision of adequate water or wastewater services to a colonia. Expenses that may be reimbursed include:

(1) construction expenses;

(2) facility planning expenses;

(3) platting expenses;

(4) surveying expenses;

(5) engineering expenses;

(6) equipment expenses; and

(7) other expenses necessary to provide water or wastewater services to the colonia, as determined appropriate by the board.

(b) The board may award a grant under the program directly to a nonprofit organization to reimburse the organization for expenses incurred in a self-help project described by Subsection (a).

Sec. 15.954. ELIGIBLE NONPROFIT ORGANIZATIONS. To be eligible to receive a grant under the program, an organization must:

(1) apply for the grant;

(2) qualify for an exemption from federal income taxes under Section 501(c)(3), Internal Revenue Code of 1986, as amended; and

(3) as of January 1, 2001, have a demonstrated record of completing in coordination with a retail public utility construction of self-help projects described by Section 15.953(a).

Sec. 15.955. GRANT APPLICATION. An eligible nonprofit organization must apply to the board for a grant under the program before incurring any expense associated with a self-help project described by Section 15.953(a). The application must include:

(1) the name of the nonprofit organization, the names of the organization's principal officers, and verification of the organization's 501(c)(3) status;

(2) a description of the project area, the anticipated number of water and wastewater connections to be made, and the anticipated number of colonia residents to be served;

(3) a description of the existing water and wastewater facilities in the colonia;

(4) a description of the project and the aspect of the project for which the grant will be used;

(5) a description of the anticipated participation in the project by residents of the colonia;

(6) the estimated total cost of both the project and the aspect of the project for which the grant will be used;

(7) the amount of the grant that is requested from the colonia self-help account and the sources of funding for the entire project;

(8) from a retail public utility authorized to provide water or wastewater services to the colonia, a resolution in which the retail public utility:

(A) agrees to inspect the project during and after construction to ensure the adequacy of the project; and

(B) commits to provide the water or wastewater services that the project intends to use; and

(9) any other information required by the board.

Sec. 15.956. BOARD CONSIDERATIONS IN EVALUATING GRANT APPLICATION. In evaluating an application for a grant under the program, the board shall consider:

(1) the number, quality, and character of projects previously completed by the applicant; and

(2) the capability of the retail public utility to provide water or wastewater services to the colonia on completion of the project.

Sec. 15.957. ACTION ON GRANT APPLICATION. (a) Not later than the 60th day after the date the board receives a complete application for a grant under the program, the board by written resolution shall:

(1) approve the application; or

(2) disapprove the application.

(b) On approval of an application, the board shall authorize the executive administrator of the board to execute a contract with the applicant for a grant to reimburse eligible expenses. The contract may provide a budget, schedule, terms for payment of funds, and any other terms the board or its executive administrator considers appropriate.

Sec. 15.958. RULES. The board shall adopt rules necessary to administer the program established under this subchapter.

Sec. 15.959. CO-ADMINISTRATION. The program shall be co-administered by the office of the secretary of state until the second anniversary of the date on which the program begins operations under this subchapter.

(8) Between SECTIONS 20 and 21 of the bill (page 27, between lines 25 and 26), insert the following appropriately numbered SECTION and renumber the subsequent SECTIONS accordingly:

SECTION _____. Subsection (g), Section 16.343, Water Code, is amended to read as follows:

(g) Before ~~filling~~ an application for funds ~~[for facility engineering]~~ under Section 15.407 or Subchapter P, Chapter 15, ~~[of this code]~~ or ~~[financial assistance under]~~ Subchapter K, Chapter 17, may be considered by the board ~~[of this code]~~, a political subdivision must adopt the model rules pursuant to this section. If the applicant is ~~[or, in the case of]~~ a district, ~~[or]~~ nonprofit water supply corporation, or colonia, the applicant must be located in a city or county that has adopted such rules. Applicants for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may not receive funds under those provisions unless the applicable political subdivision ~~[An affected county may not receive funds under either Section 15.407 of this code or Subchapter K, Chapter 17, of this code unless the county]~~ adopts and enforces the model rules.

(9) Between SECTIONS 31 and 32 of the bill (page 34, between lines 12 and 13), insert the following appropriately numbered SECTION and renumber the subsequent SECTIONS accordingly:

SECTION _____. The Texas Water Development Board is required to implement the colonia self-help program under Subchapter P, Chapter 15, Water Code, as added by this Act, only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the Texas Water Development Board may, but is not required to, implement the colonia self-help program using other appropriations available for that purpose.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Chisum offered the following amendment to **CSSB 312**:

Amend **CSSB 312** (House committee printing) as follows:

(1) In SECTION 4 of the bill, in added Section 6.060(d), Water Code (page 4, line 10), strike "to address" and substitute ", or the successor agency that administers the portion of the federal community development block grant nonentitlement program that addresses the infrastructure needs of colonias, to assess".

(2) In SECTION 4 of the bill, in added Section 6.060(d), Water Code (page 4, lines 12-14), strike "Water and Wastewater Infrastructure Advisory Committee, as provided by Section 2306.5851" and substitute "Initiatives Advisory Committee, as provided by Section 2306.590".

(3) In SECTION 29 of the bill, in amended Section 2306.584, Government Code (page 31, line 23), strike "SELF-HELP CENTER" and substitute "RESIDENT".

(4) In SECTION 29 of the bill, in amended Section 2306.584, Government Code (page 31, line 25), strike "Self-Help Center" and substitute "Resident".

(5) In SECTION 29 of the bill, in amended Section 2306.585, Government Code (page 32, lines 12 and 13), strike "SELF-HELP CENTER ADVISORY COMMITTEE". (a) The Colonia Self-Help Center" and substitute "RESIDENT ADVISORY COMMITTEE". (a) The Colonia Resident".

(6) In SECTION 29 of the bill, in amended Section 2306.585(b), Government Code (page 32, line 20), between "The" and "committee", insert "advisory".

(7) In SECTION 30 of the bill, in the introductory language (page 32, line 24), strike "2306.5851" and substitute "2306.590".

(8) In SECTION 30 of the bill, in added Section 2306.5851, Government Code (page 32, lines 25-27), strike "Sec. 2306.5851. COLONIA WATER AND WASTEWATER INFRASTRUCTURE ADVISORY COMMITTEE. (a) The Colonia Water and Wastewater Infrastructure" and substitute "Sec. 2306.590. COLONIA INITIATIVES ADVISORY COMMITTEE. (a) The Colonia Initiatives".

(9) In SECTION 30 of the bill, in added Section 2306.5851(a)(3), Government Code (page 33, line 5), strike "local government representative" and substitute "representative of a political subdivision that contains all or part of a colonia".

(10) In SECTION 30 of the bill, in added Section 2306.5851(b), Government Code (page 33, line 14), strike "100" and substitute "150".

(11) In SECTION 30 of the bill, in added Section 2306.5851, Government Code (page 33, line 17, through page 34, line 4), strike Subsections (d) and (e) and substitute the following:

(d) The committee shall:

(1) review the progress of colonia water and wastewater infrastructure projects managed by the Texas Water Development Board and the state agency responsible for administering the portion of the federal community development block grant nonentitlement program that addresses the infrastructure needs of colonias;

(2) present an update and make recommendations to the board and the Texas Water Development Board annually at the joint meeting required by Section 6.060(d), Water Code, regarding:

(A) efforts to ensure that colonia residents are connected to the infrastructure funded by state agencies;

(B) the financial, managerial, and technical capabilities of project owners and operators;

(C) the agencies' management of their colonia programs and the effectiveness of their policies regarding underperforming projects; and

(D) any other issues related to the effect of state-managed infrastructure programs on colonia residents;

(3) review public comments regarding the colonia needs assessment incorporated into the state low income housing plan under Section 2306.0721; and

(4) based on the public comments reviewed under Subdivision (3), recommend to the board new colonia programs or improvements to existing colonia programs.

(12) Between SECTIONS 32 and 33 of the bill (page 34, between lines 19 and 20), insert the following appropriately numbered SECTION and renumber the subsequent SECTION accordingly:

SECTION __. If S.B. No. 322, 77th Legislature, Regular Session, 2001, becomes law and if that bill provides for the creation of a Colonia Resident Advisory Committee, a Colonia Initiatives Advisory Committee, or a

committee having another name that has functions similar to those of the Colonia Resident Advisory Committee or the Colonia Initiatives Advisory Committee created by this Act, it is the intent of the legislature that this Act govern all matters relating to the committees and that the provisions of S.B. No. 322 relating to the committees have no effect.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Chisum offered the following amendment to **CSSB 312**:

Amend **CSSB 312** (House committee printing) as follows:

(1) In SECTION 24 of the bill, in added Section 17.894(b)(2), Water Code (page 29, line 17), between "projects" and the semicolon, insert "as provided by legislative appropriation".

(2) In SECTION 24 of the bill, in added Section 17.894(b)(3), Water Code (page 29, lines 19 and 20), strike "project of that agency, including a project" and substitute "program of that agency, including a program".

(3) In SECTION 24 of the bill, in added Section 17.894(b)(3), Water Code (page 29, line 22), between "conservation" and the period, insert ", as provided by legislative appropriation".

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Geren offered the following amendment to **CSSB 312**:

Amend **CSSB 312** (House Committee Report Version) to read as follows:

(1) On page 31, line 16, between the words "rules" and "board", strike "and the agreement between the" and substitute "or with agreement from the".

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Counts offered the following amendment to **CSSB 312**:

Amend **CSSB 312** (House committee printing) by adding the following appropriately numbered SECTION to the bill and appropriately renumbering subsequent SECTIONS of the bill:

SECTION _____. (a) Chapter 9, Water Code, as added by Senate Bill No. 2, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Section 9.017 to read as follows:

Sec. 9.017. DISSOLUTION OF COUNCIL AND ACCOUNT. Unless extended by the 78th Legislature, this chapter expires and the council and the interagency water advisory account created by this chapter are abolished on September 1, 2003.

(b) If a joint committee on water infrastructure required to conduct an interim study on water marketing, water financing, water conveyance systems, the appropriation, reservation, or acquisition of water for instream users, or the recodification of special laws creating and governing river authorities is created by an Act of the 77th Legislature at its regular session that is enacted and becomes law, that committee shall include in its interim study the

continuation of the Texas Water Advisory Council, if that council is created by an Act of the 77th Legislature at its regular session that is enacted and becomes law.

(c) Subsection (a) of this section takes effect only if Senate Bill No. 2, or another Act of the 77th Legislature, Regular Session, 2001, adding Chapter 9, Water Code, which creates the Texas Water Advisory Council, is enacted and becomes law.

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

Amendment No. 5 was adopted without objection.

CSSB 312, as amended, was passed to third reading.

SB 1689 ON SECOND READING
(Y. Davis - House Sponsor)

SB 1689, A bill to be entitled An Act relating to the franchise tax.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Oliveira, Representative Y. Davis offered the following committee amendment to **SB 1689**:

Amend **SB 1689** as follows:

On page 1, line 16, insert the following after the period:

Farm mutuals, local mutual aid associations and burial associations are not subject to the franchise tax.

On page 2, line 3, delete "Except as otherwise provided in Subsection (k), a" and insert "A".

On page 2, strike the language on lines 8 through 12.

On page 2, line 16, insert a period after "2001" and delete the language on lines 17 through 19.

Amendment No. 1 was adopted without objection.

SB 1689, as amended, was passed to third reading.

CSSB 43 ON SECOND READING
(Gray, Coleman, Naishtat, Maxey, Keffer, et al. - House Sponsors)

CSSB 43, A bill to be entitled An Act relating to simplifying the certification process for medical assistance provided to children.

Amendment No. 1

Representatives Gray, Coleman, Janek, Keffer, Maxey, and Wohlgemuth offered the following amendment to **CSSB 43**:

Amend **CSSB 43** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 62.103(b), Health and Safety Code, is amended to read as follows:

(b) The form and procedures must be coordinated with forms and procedures under the Medicaid program and those used by the Texas Healthy Kids Corporation to ensure that~~[- to the extent possible;]~~ there is a single consolidated application to seek assistance under this chapter or the Medicaid program or from the corporation.

SECTION 2. Section 32.025, Human Resources Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) The department shall adopt an application form and procedures for a request for medical assistance provided to a child under 19 years of age. To the extent allowed by federal law and except as otherwise provided by this section, the application form and procedures must be the same as the form and procedures adopted under Section 62.103, Health and Safety Code. The department shall coordinate the form and procedures adopted under this subsection with the form and procedures adopted under Section 62.103, Health and Safety Code, to ensure that there is a single consolidated application for a child under 19 years of age to seek medical assistance or to request coverage under the state child health plan under Chapter 62, Health and Safety Code.

(e) The department shall permit an application requesting medical assistance for a child under 19 years of age to be conducted by mail instead of through a personal appearance at a department office.

(f) The commissioner by rule may develop procedures by which:

(1) any office of a health and human services agency may accept an application requesting medical assistance for a child under 19 years of age; and

(2) the department may contract with hospital districts and county health departments to accept applications requesting medical assistance for a child under 19 years of age.

SECTION 3. Section 32.026, Human Resources Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) In adopting rules under this section, the department shall ensure, to the extent allowed by federal law, that documentation and verification procedures used in determining and certifying the eligibility and need for medical assistance of a child under 19 years of age, including the documentation and verification procedures used to evaluate the assets and resources of the child, the child's parents, or the child's other caretaker for that purpose, are the same as the documentation and verification procedures used to determine and certify a child's eligibility for coverage under Chapter 62, Health and Safety Code, except that the documentation and verification procedures adopted in accordance with this subsection may not be more stringent than the documentation and verification procedures existing on January 1, 2001, for determination and certification of a child's eligibility for coverage under Chapter 62, Health and Safety Code.

(e) The department shall permit a recertification review of the eligibility and need for medical assistance of a child under 19 years of age to be conducted by telephone or mail instead of through a personal appearance at a department office.

(f) In adopting rules under this section, the department shall ensure, to the extent allowed by federal law, that forms and procedures used in conducting a recertification review of the eligibility and need for medical assistance of a child under 19 years of age, including documentation and verification procedures, are the same as the forms and procedures used to determine and certify a child's renewal of coverage under Chapter 62, Health and Safety Code.

SECTION 4. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Sections 32.0261, 32.0262, and 32.0263 to read as follows:

Sec. 32.0261. CONTINUOUS ELIGIBILITY. The department shall adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as amended, to provide for a period of continuous eligibility for a child under 19 years of age who is determined to be eligible for medical assistance under this chapter. The rules shall provide that the child remains eligible for medical assistance, without additional review by the department and regardless of changes in the child's resources or income, until the earlier of:

(1) the first anniversary of the date on which the child's eligibility was determined; or

(2) the child's 19th birthday.

Sec. 32.0262. ELIGIBILITY TRANSITION. (a) The department shall develop procedures to ensure that all necessary information regarding a child who will be denied continued medical assistance under this chapter because of an increase in income, assets, or resources but who is eligible for enrollment in the child health plan under Chapter 62, Health and Safety Code, is promptly transmitted to the child health plan in accordance with the standards established under Section 62.104(d), Health and Safety Code.

(b) The department shall develop procedures to ensure that the parent or caretaker of a child who will be denied continued medical assistance under this chapter because of a failure to keep an appointment, including an appointment for recertification of eligibility, a failure to provide information, or for another procedural reason, is promptly contacted and informed of:

(1) the need to recertify eligibility for continued medical assistance under this chapter; and

(2) the availability of medical coverage under the child health plan under Chapter 62, Health and Safety Code.

(c) The department shall develop materials under this section in consultation with the Health and Human Services Commission and the appropriate agencies administering all or part of the child health plan under Chapter 62, Health and Safety Code.

(d) The department by rule shall adopt procedures to assist a family whose child loses eligibility for medical assistance under this chapter in making a transition to the child health plan under Chapter 62, Health and Safety Code, with no interruption in coverage.

Sec. 32.0263. HEALTH CARE ORIENTATION. (a) The department shall require that the parent or guardian of a child under 19 years of age who originally establishes eligibility for medical assistance must:

(1) attend an in-person counseling session with a department representative not later than the 31st day after the date the child originally establishes eligibility; or

(2) accompany the child to an appointment with a health care provider for a comprehensive health care orientation not later than the 61st day after the date the child originally establishes eligibility.

(b) The commissioner by rule shall develop procedures to verify that:

(1) the parent or guardian of the child who originally establishes eligibility complies with the requirement of Subsection (a)(2), if applicable; and

(2) the child is provided a comprehensive health care orientation at the appointment with the health care provider.

SECTION 5. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.053 to read as follows:

Sec. 32.053. COMPLIANCE WITH TEXAS HEALTH STEPS. The commissioner by rule shall develop procedures to ensure that parents of children who are recipients of medical assistance comply with the regimen of care prescribed by the Texas Health Steps Comprehensive Care Program.

SECTION 6. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0076 to read as follows:

Sec. 533.0076. LIMITATIONS ON RECIPIENT DISENROLLMENT. (a) Except as provided by Subsections (b) and (c), and to the extent permitted by federal law, the commission may prohibit a recipient from disenrolling in a managed care plan under this chapter and enrolling in another managed care plan during the 12-month period after the date the recipient initially enrolls in a plan.

(b) At any time before the 91st day after the date of a recipient's initial enrollment in a managed care plan under this chapter, the recipient may disenroll in that plan for any reason and enroll in another managed care plan under this chapter.

(c) The commission shall allow a recipient who is enrolled in a managed care plan under this chapter to disenroll in that plan at any time for cause in accordance with federal law.

SECTION 7. 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 8. (a) Notwithstanding Section 32.0261, Human Resources Code, as added by this Act, the Health and Human Services Commission or the appropriate state agency operating part of the medical assistance program under Chapter 32, Human Resources Code, shall adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as amended, to provide for a period of continuous eligibility for a child under 19 years of age who is determined to be eligible for medical assistance under that chapter. The rules shall provide that the child remains eligible for medical assistance, without additional review by the agency and regardless of changes in the child's resources or income, until the earlier of:

(1) the 180th day after the date on which the child's eligibility was determined; or

(2) the child's 19th birthday.

(b) The Health and Human Services Commission or the appropriate state agency operating part of the medical assistance program under Chapter 32, Human Resources Code, shall adopt rules required by this section not later than February 1, 2002. The rules must provide for a six-month period of continuous eligibility in accordance with this section for a child whose initial or continued eligibility is determined on or after the effective date of the rules. The rules adopted under this subsection remain in effect until superseded by the rules adopted under Section 32.0261, Human Resources Code, as added by this Act.

(c) This section expires on the date that the rules adopted under Section 32.0261, Human Resources Code, as added by this Act, take effect.

SECTION 9. (a) The Medicaid legislative oversight committee created under S.B. No. 1156, Acts of the 77th Legislature, Regular Session, 2001, may review and make recommendations regarding legislation necessary to accomplish the purposes of Sections 32.025, and 32.026, Human Resources Code, as amended by this Act, and Section 32.0261, Human Resources Code, as added by this Act.

(b) Subsection (a) of this section takes effect only if S.B. No. 1156, Acts of the 77th Legislature, Regular Session, 2001, authorizes the creation of the Medicaid legislative oversight committee and is enacted and becomes law. If S.B. No. 1156 does not authorize the creation of the committee, is not enacted, or does not become law, this section has no effect.

SECTION 10. (a) Except as otherwise provided by this Act, this Act takes effect January 1, 2002.

(b) Section 32.0261, Human Resources Code, as added by this Act, takes effect September 1, 2002, but the appropriate state agency may not implement the 12-month period of continuous eligibility prescribed by that section until the date on which the rules adopted under Subsection (c) of this section take effect.

(c) The Health and Human Services Commission or the appropriate state agency operating part of the medical assistance program under Chapter 32, Human Resources Code, shall adopt rules required by Section 32.0261, Human Resources Code, as added by this Act, so that the rules take effect in accordance with that section not earlier than September 1, 2002, or later than June 1, 2003. The rules must provide for a 12-month period of continuous eligibility in accordance with that section for a child whose initial or continued eligibility is determined on or after the effective date of the rules.

(d) The Health and Human Services Commission or the appropriate agency operating part of the medical assistance program under Chapter 32, Human Resources Code, shall adopt rules required by Section 32.0262, Human Resources Code, as added by this Act, not later than February 1, 2002.

Amendment No. 2

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

Amend the proposed floor substitute to **CSSB 43** as follows:

(1) On page 1, strike SECTION 1 and substitute:

SECTION 1. Section 62.103(b), Health and Safety Code, is amended to read as follows:

(b) The form and procedures must be coordinated with forms and procedures under the Medicaid program ~~and those used by the Texas Healthy Kids Corporation~~ to ensure that, ~~to the extent possible,~~ there is a single consolidated application to seek assistance under this chapter or the Medicaid program ~~or from the corporation.~~

(2) On page 2, line 9, between "districts" and "and", add ", hospitals,".

(3) On page 5, strike SECTION 5 and substitute the following:

SECTION 5. Subchapter B, Chapter 2, Human Resources Code, is amended by adding Section 32.053 to read as follows:

Sec. 32.053. COMPLIANCE WITH TEXAS HEALTH STEPS. The commissioner by rule shall develop procedures to ensure that recipients of medical assistance, who are eligible for Texas Health Steps, comply with the

regimen of care prescribed by the Texas Health Steps, comply with the regimen of care prescribed by the Texas Health Steps Comprehensive Care Program.

Amendment No. 2 was adopted without objection.

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

CSSB 43 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE COLEMAN: In the appropriations bill, the conference committee on **SB 1**, there are two riders that address rates for both physicians and for dentists that provide a disproportionate share of Medicaid service to their patients. And also we increase the rate based on the common codes that, the diagnostic codes, that individuals use when they come in to the physician, so they're primary care codes. We also increase the rate based on Texas Health Steps, that would be your health checkup and your dental checkup and that, the rate for that service, the amount of money that a provider's paid for, that service has been increased. There will have to be rules written on the threshold in which a bonus is given to a provider for that purpose. And this was done specifically and particularly for areas that have a higher rate of Medicaid usage, but a lower rate of patient mix, in terms of private insurance with Medicaid, for those . . .

REPRESENTATIVE CHAVEZ: For example, some areas of the border and some areas possibly in Houston and Dallas and other areas?

COLEMAN: Correct, correct.

CHAVEZ: Okay, great. And I appreciate your leadership to El Paso. You've been working with us on the issue, and I just would appreciate just one more question.

COLEMAN: Yeah, let me tell you, that's \$50 million for the biennium for physician rates, \$20 million for the biennium for dental rates, as well as an increase in hospital rates as well as other rates.

CHAVEZ: Great, and I think we'll probably clarify that **SB 1** when that comes to the floor.

COLEMAN: Right, and that's general revenue, that is, it includes the federal matching fund.

CHAVEZ: Which included, both simplification and rate disparity, and again, I appreciate your leadership and involvement. And so, you feel confident that this committee substitute doesn't affect or conflict with the provisions that are included in **SB 1053**, which we've postponed?

COLEMAN: Tell me the provisions, specifically, so I can make sure that I answer your question correctly.

CHAVEZ: Okay, **SB 1053** addresses the rate disparities, specifically, and we are utilizing the same rider that you are talking about in **SB 1** for children 19 and under, and I just want to make sure that the bill, the committee . . .

COLEMAN: Oh, no nothing in this committee substitute would have any impact on any other bill, I think as Chairwoman Gray has . . .

CHAVEZ: Or conflict with . . .

COLEMAN: No conflict. What Chairwoman Gray has said clearly is that this addresses the process in which families access eligibility for Medicaid.

CHAVEZ: Okay, great.

COLEMAN: And that's what this committee substitute addresses, as well as the original bill as filed. The fiscal note speaks to the amount that we estimate would be the cost for the new populations. It doesn't address a rate at any point . . .

CHAVEZ: Right.

COLEMAN: In this particular substitute.

CHAVEZ: And early on when we had our conversations in El Paso, we were concerned with simplification and rate disparity and basically the agreement between those of you who are involved intimately in working on the simplification for more children to be involved in the programs, you also provided the funding for the rate disparity, which is what we'll address on **SB 1053**.

COLEMAN: Right, and of course if you look . . .

CHAVEZ: And again, I want to thank all of you for your leadership on this issue.

COLEMAN: Well, thank you for bringing the issue of the disproportion of impact of having a high Medicaid patient population to providers, but particularly in El Paso where you live, but also around the state, you have contributed greatly to good public policy in Texas.

CHAVEZ: Yeah, because of the utilization rates, and the HMOs when they laid it out in El Paso, we ended up being unfairly penalized and ya'll addressed this and I appreciate that.

REMARKS ORDERED PRINTED

Representative Chavez moved to print remarks by Representative Coleman and Representative Chavez.

The motion prevailed without objection.

A record vote was requested.

SB 43, as amended, was passed to third reading by (Record 485): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; 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; 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; 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; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gutierrez; Hilbert; Pickett.

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

Absent — Bonnen; Counts; Grusendorf.

STATEMENT OF VOTE

When Record No. 485 was taken, my vote failed to register. I would have voted yes.

Counts

CONSTITUTIONAL AMENDMENTS CALENDAR SENATE JOINT RESOLUTIONS SECOND READING

The following resolution was laid before the house and read second time:

CSSJR 37 ON SECOND READING (Flores - House Sponsor)

CSSJR 37, A joint resolution proposing a constitutional amendment authorizing the issuance of general obligation bonds or notes to provide financial assistance to counties for roadway projects to serve border colonias.

A record vote was requested.

CSSJR 37 was adopted by (Record 486): 137 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; 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; Goodman; Goolsby; Gray; Green; Grusendorf; 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; 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; 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.

Nay — Uher.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gutierrez; Hilbert; Pickett.

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

Absent — Bailey; Glaze; Kolkhorst.

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 377 ON THIRD 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.

Amendment No. 1

Representative Miller offered the following amendment to **SB 377**:

Amend **SB 377** on third reading in SECTION 1 of the bill, in amended Section 251.18(a), Alcoholic Beverage Code, by striking added Subdivision (2) (House committee printing, page 1, lines 12-20), and substituting the following:

(2) beer and wine in an incorporated city or town that does not permit beer and wine sales on September 1, 2001, and is located in:

(A) two counties:

(i) that each have a population of at least 250,000 but not more than one million; and

(ii) one of which contains a city or town with a population of 125,000 or more; or

(B) three counties:

(i) that each have a population of not more than 300,000; and

(ii) one of which contains a city or town with a population of 20,000 or more.

Representative Solomons moved to table Amendment No. 1.

(Speaker pro tempore in the chair)

A record vote was requested.

The motion to table was lost by (Record 487): 42 Yeas, 82 Nays, 4 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bosse; Brimer; Burnam; Cook; Corte; Counts; Danburg; Denny; Deshotel; Dunnam; Ellis; Flores; Gallego; Gray; Hawley; Hinojosa; Homer; Hopson; Janek; Jones, D.; Jones, E.; Keel; King, P.; King, T.; Maxey; McCall; McClendon; Merritt; Moreno, P.; Naishtat; Olivo; Rangel; Reyna, A.; Ritter; Solomons; Telford; Turner, B.; Wise; Woolley.

Nays — Berman; Bonnen; Brown, B.; Brown, F.; Callegari; Carter; Chavez; Chisum; Christian; Clark; Crabb; Craddick; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Edwards; Ehrhardt; Eiland; Farabee; Farrar; George; Geren; Glaze; Goodman; Goolsby; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hilderbran; Hill; Hope; Howard; Hunter; Hupp; Isett; Junell; Keffer; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Martinez Fischer; McReynolds; Menendez; Miller; Moreno, J.; Morrison; Mowery; Najera; Nixon; Noriega; Puente; Ramsay; Raymond; Reyna, E.; Salinas; Seaman; Shields; Smith; Mithee; Solis; Swinford; Talton; Thompson; Truitt; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wohlgemuth; Wolens; Yarbrough; Zbraneck.

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

Absent, Excused — Gutierrez; Hilbert; Pickett.

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

Absent — Bailey; Capelo; Coleman; Crownover; Dutton; Elkins; Hodge; Jones, J.; Kitchen; Kolkhorst; Luna; Madden; Oliveira; Wilson.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 487. I intended to vote no.

E. Jones

I was in the house but away from my desk. I would have voted yes.

Wilson

Amendment No. 1 was adopted without objection.

SB 377, as amended, was passed. (Crabb, Heflin, and Merritt recorded voting no)

SB 393 ON THIRD 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 passed.

SB 1536 ON THIRD READING (Chavez, Wohlgemuth, 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.

Amendment No. 1

Representative Chavez offered the following amendment to **SB 1536**:

Amend **SB 1536** on third reading by amending house floor amendment no. 1 by Puente as follows:

(1) Create subsection with existing Puente amendment language by inserting "(a)" between "FACILITIES." and "A" on page 6 line 15 of the amendment.

(2) Insert new subsection between lines 20 and 21 of page 6 of the amendment as follows:

"(b) The 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 not eligible to receive private network services under Section 58.253(a), except with respect to a project that would have been eligible to be funded by the telecommunications infrastructure fund under this subchapter as it existed on January 1, 2000."

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Maxey offered the following amendment to **SB 1536**:

Amend **SB 1536** on third reading by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Chapter 35, Health and Safety Code, is amended by adding Section 35.0041 to read as follows:

Sec. 35.0041. PARTICIPATION AND REIMBURSEMENT OF TELEMEDICINE MEDICAL SERVICE PROVIDERS. (a) The department by rule shall develop and implement policies permitting reimbursement of a provider for services under the program performed using telemedicine medical services and telehealth services.

(b) The policies must provide for reimbursement of:

(1) providers using telemedicine medical services and telehealth services in a cost-effective manner that ensures the availability to a child with special health care needs of services appropriately performed using telemedicine medical services and telehealth services that are comparable to the same types of services available to that child without use of medical services and telehealth services;

(2) a provider for a service performed using telemedicine medical services and telehealth services at an amount equal to the amount paid to a provider for performing the same service without using telemedicine medical services and telehealth services;

(3) multiple providers of different services who participate in a single telemedicine medical services or telehealth services session for a child with special health care needs, if the department determines that reimbursing each provider for the session is cost-effective in comparison to the costs that would be involved in obtaining the services from providers without the use of telemedicine medical services and telehealth services, including the costs of transportation and lodging and other direct costs.

(4) Providers using telemedicine medical services and telehealth services included in the school health and related services program.

(c) In developing and implementing the policies required by this section, the department shall consult with:

(1) The University of Texas Medical Branch at Galveston;
(2) Texas Tech University Health Services Center;
(3) the Health and Human Services Commission, including the state Medicaid office;

(4) providers of telemedicine medical services and telehealth services hub sites in this state;

(5) providers of services to children with special health care needs;
and

(6) representatives of consumer or disability groups affected by changes to services for children with special health care needs.

(d) This section applies to services for which coverage is provided under the health benefits plan established under Section 35.0031.

SECTION __. Subchapter D, Chapter 62, Health and Safety Code, is amended by adding Section 62.157 to read as follows:

Sec. 62.157. TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH SERVICES FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) In providing covered benefits to a child with special health care needs, a health plan provider must permit benefits to be provided through telemedicine medical services and telehealth services in accordance with policies developed by the commission.

(b) The policies must provide for:

(1) the availability of covered benefits appropriately provided through telemedicine medical services and telehealth services that are comparable to the same types of covered benefits provided without the use of telemedicine medical services and telehealth services; and

(2) the availability of covered benefits for different services performed by multiple health care providers during a single telemedicine medical services and telehealth services session, if the commission determines that delivery of the covered benefits in that manner is cost-effective in comparison to the costs that would be involved in obtaining the services from providers without the use of telemedicine medical services and telehealth services, including the costs of transportation and lodging and other direct costs.

(c) In developing the policies required by Subsection (a), the commission shall consult with:

(1) The University of Texas Medical Branch at Galveston;
(2) Texas Tech University Health Sciences Center;
(3) the Texas Department of Health;
(4) providers of telemedicine services and telehealth services hub sites in this state;

(5) providers of services to children with special health care needs;
and

(6) representatives of consumer or disability groups affected by changes to services for children with special health care needs.

SECTION __. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02161 to read as follows:

Sec. 531.02161. MEDICAID SERVICES PROVIDED THROUGH TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH SERVICES TO CHILDREN WITH SPECIAL HEALTH CARE NEEDS. (a) In this section,

"Child with special health care needs" has the meaning assigned by Section 35.0022, Health and Safety Code.

(b) The commission by rule shall establish policies that permit reimbursement under the state Medicaid and Children's Health Insurance program for services provided through telemedicine services and telehealth services to children with special health care needs.

(c) The policies required under this section must:

(1) be designed to:

(A) prevent unnecessary travel and encourage efficient use of telemedicine medical services and telehealth services for children with special health care needs in all suitable circumstances; and

(B) ensure in a cost-effective manner the availability to a child with special health care needs of services appropriately performed using telemedicine medical services and telehealth services that are comparable to the same types of services available to that child without use of telemedicine medical services and telehealth services; and

(2) provide for reimbursement of multiple providers of different services who participate in a single telemedicine medical services and telehealth services session for a child with special health care needs, if the commission determines that reimbursing each provider for the session is cost-effective in comparison to the costs that would be involved in obtaining the services from providers without the use of telemedicine medical services and telehealth services, including the costs of transportation and lodging and other direct costs.

SECTION ____ . The Health and Human Services Commission and the Texas Department of Health shall develop and implement policies required by Sections 35.0041 and 62.157, Health and Safety Code, as added by this Act, not later than December 31, 2001.

SECTION ____ . Not later than December 1 of each even-numbered year, the commission shall report to the Speaker of the House of Representatives, the Lieutenant Governor, and the Governor on the effects of telemedicine medical services on the Medicaid and Children's Health Insurance programs in the state, including the number of physicians and health professionals using telemedicine medical services, the geographic and demographic dispositions of the physicians and health professionals, the number of patients receiving telemedicine services, the types of services being provided, and the cost of utilization of telemedicine medical services to the program.

Section ____ . Section 58.253(a), Utilities Code, is amended to read as follows: (a) On customer request, an electing company shall provide private network services to: (1) an educational institution; (2) a library; (3) a nonprofit telemedicine center; (4) a public not-for-profit hospital; (5) a project that would have been eligible to be funded by the telecommunications infrastructure fund under Subchapter C, Chapter 57, as that subchapter existed on January 1, 2001; or (6) a legally constituted consortium or group of entities listed in this subsection.

Amendment No. 2 was adopted.

A record vote was requested.

SB 1536, as amended, was passed by (Record 488): 136 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; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Goodman; Goolsby; Gray; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; 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; 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; Uher(C).

Absent, Excused — Gutierrez; Hilbert; Pickett.

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

Absent — Elkins; Glaze; Jones, D.; Merritt.

SB 1467 ON THIRD 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.

SB 1467 was passed. (Berman, Corte, and Hupp recorded voting no)

SB 1797 ON THIRD 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.

A record vote was requested.

SB 1797 was passed by (Record 489): 140 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; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; 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; 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; Uher(C).

Absent, Excused — Gutierrez; Hilbert; Pickett.

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

SB 1268 ON THIRD 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

Representative Solomons offered the following amendment to **SB 1268**:

Amend **SB 1268** on third reading as follows:

(1) In the SECTION of the bill amending Section 2166.258(b), Government Code, following amended Subsection (b), insert new Subsection (c) to read as follows and make appropriate conforming changes to the recital of that SECTION:

(c) 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.

(2) In the SECTION of the bill amending Section 2253.021, Government Code, strike Subsection (g), as added by the Wise amendment No. 2, and make appropriate conforming changes to the recital of that SECTION.

Amendment No. 1 was adopted without objection.

SB 1268, as amended, was passed.

SB 1574 ON THIRD 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.

SB 961 ON THIRD 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.

SB 961 was passed. (Berman, Corte, and Hupp recorded voting no)

SB 1047 ON THIRD 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.

A record vote was requested.

SB 1047 was passed by (Record 490): 135 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.; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Gray; Green; Grusendorf; 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; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wolens; Woolley; Zbrank.

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

Absent, Excused — Gutierrez; Hilbert; Pickett.

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

Absent — Delisi; Goolsby; Talton; Wohlgemuth; Yarbrough.

STATEMENT OF VOTE

When Record No. 490 was taken, I was in the house but away from my desk. I would have voted yes.

Delisi

SB 779 ON THIRD READING
(Walker - House Sponsor)

SB 779, A bill to be entitled An Act relating to the creation of an agricultural lien.

SB 779 was passed.

SB 350 ON THIRD 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.

SB 350 was passed. (Berman, B. Brown, Corte, and Hupp recorded voting no)

SB 430 ON THIRD READING
(Goodman - House Sponsor)

SB 430, A bill to be entitled An Act relating to creation of the Texas School Safety Center.

SB 430 was passed.

SB 536 ON THIRD READING
(Dutton and Clark - House Sponsors)

SB 536, A bill to be entitled An Act relating to compensation to persons wrongfully imprisoned.

A record vote was requested.

SB 536 was passed by (Record 491): 140 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; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; 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; 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; Uher(C).

Absent, Excused — Gutierrez; Hilbert; Pickett.

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

SB 538 ON THIRD READING
(Oliveira - House Sponsor)

SB 538, A bill to be entitled An Act relating to a study of duties performed by public school counselors.

SB 538 was passed.

SB 545 ON THIRD 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.

SB 554 ON THIRD 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.

SB 643 ON THIRD READING
(Gray - House Sponsor)

SB 643, A bill to be entitled An Act relating to the practice of acupuncture.

SB 643 was passed. (Corte recorded voting no)

SB 654 ON THIRD 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.

SB 654 was passed.

SB 731 ON THIRD 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.

SB 766 ON THIRD 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.

SB 766 was passed.

SB 776 ON THIRD READING
(Goodman - House Sponsor)

SB 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 **SB 776**:

Amend **SB 776**, on third reading, by striking SECTION 2 of the bill, as amended on second reading by the amendment by Goodman, and substituting the following:

SECTION 2. (a) This Act takes effect January 1, 2002.

(b) The change in law made by this Act applies only to:

(1) a child support payment that becomes due on or after the effective date of this Act; and

(2) unpaid child support that became due before the effective date of this Act and for which a court has not confirmed the amount of arrearages and rendered a money judgment.

(c) A money judgment for child support rendered before the effective date of this Act is governed by the law in effect on the date the judgment was rendered, and the former law is continued in effect for that purpose.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Dukes offered the following amendment to **SB 776**:

Amend **SB 776**, on third reading, by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. (a) Subchapter A, Chapter 154, Family Code, is amended by adding Section 154.013 to read as follows:

Sec. 154.013. PAYMENTS IN EXCESS OF COURT-ORDERED AMOUNT. (a) If a child support agency or local child support registry receives from an obligor who is not in arrears a child support payment in an amount that exceeds the court-ordered amount, the agency or registry, to the extent possible, shall give effect to any expressed intent of the obligor for the application of the amount that exceeds the court-ordered amount.

(b) If the obligor does not express an intent for the application of the amount paid in excess of the court-ordered amount, the agency or registry shall:

(1) credit the excess amount to the obligor's future child support obligation; and

(2) promptly disperse the excess amount to the obligee.

(c) This section does not apply to an obligee who is a recipient of public assistance under Chapter 31, Human Resources Code.

(b) Notwithstanding any other section of this Act, the change in law made by Section 154.013, Family Code, as added by this section, takes effect September 1, 2001, and applies only to a child support payment made on or after that date. A child support payment made before September 1, 2001, is governed by the law in effect on the date the payment was made, and the former law is continued in effect for that purpose.

Amendment No. 2 was adopted without objection.

SB 776, as amended, was passed.

SB 925 ON THIRD 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.

SB 965 ON THIRD 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.

SB 965 was passed.

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 439 ON THIRD 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.

**SB 888 ON THIRD 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.

**SB 889 ON THIRD 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.

SB 889 was passed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Thompson requested permission for the Committee on Judicial Affairs to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Judicial Affairs, 3:40 p.m. today, speakers committee room, for a formal meeting, to consider **SB 1808**.

**SB 189 ON THIRD 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.

Amendment No. 1

Representative S. Turner offered the following amendment to **SB 189**:

Amend **SB 189** on third reading as follows:

On page 1, line 18 add a new section to read as follows:

Section __. Section 37.004, Education Code is amended to read as follows:

(a) The placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review

and dismissal committee. A student with a disability who receives special education services may not be placed in alternative education programs solely for educational purposes if the student does not also meet the criteria for alternative placement in Section 37.006(a) or Section 37.007(a).

(b) Notwithstanding any other provision of this subchapter, the placement of a student with a disability who receives special education services and is expelled under a provision of Section 37.007 described by this subsection shall be made only by a duly constituted admission, review, and dismissal committee. In a county in which a juvenile justice alternative education program is established under Section 37.011, the administrator or designee of the juvenile justice alternative education program shall be provided reasonable notice of the admission, review, and dismissal committee meeting in accordance with applicable federal law, and a representative of the juvenile justice alternative education program shall attend the admission, review, and dismissal committee meeting to assist in determining the appropriateness of the placement of the student in the juvenile justice alternative education program. This subsection applies only to an expulsion order under:

(1) Section 37.007(b), (c), or (f); or

(2) Section 37.007(d) as a result of conduct that contains the elements of any offense listed in Section 37.007(b)(3) against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district.

(c) If after placement of a student in a juvenile justice alternative education program under Section (b), it is determined that the student's educational or behavioral needs cannot be met in the program, the administrator or designee of the juvenile justice alternative education program shall immediately provide written notice of that determination to the school district from which the student was expelled. An admission, review, and dismissal committee shall be convened to determine the appropriateness of the student's placement in the juvenile justice alternative education program. The administrator or designee of the juvenile justice alternative education program shall be provided reasonable notice of the admission, review, and dismissal committee meeting in accordance with applicable federal law. A representative of the juvenile justice alternative education program shall attend the admission, review, and dismissal committee meeting to assist in determining the appropriateness of the continued placement of the student in the juvenile justice alternative education program.

Amendment No. 1 was adopted without objection.

A record vote was requested.

SB 189, as amended, was passed by (Record 492): 137 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; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman;

Goolsby; Gray; Grusendorf; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilderbran; Hill; Hinojosa; 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; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; 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; Uher(C).

Absent, Excused — Gutierrez; Hilbert; Pickett.

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

Absent — Green; Hartnett; Howard.

**GENERAL STATE CALENDAR
SENATE BILLS
SECOND READING**

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

**CSSB 1296 ON SECOND READING
(Flores - House Sponsor)**

CSSB 1296, A bill to be entitled An Act relating to the issuance of general obligation bonds and notes to provide financial assistance to counties for roadway projects to serve border colonias.

CSSB 1296 was passed to third reading.

**SB 63 ON SECOND READING
(McCall - House Sponsor)**

SB 63, A bill to be entitled An Act relating to a franchise tax credit for wages paid to persons with certain disabilities.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Hartnett, Representative McCall offered the following committee amendment to **SB 63**:

Amend **SB 63** as follows:

(1) In SECTION 1 of the bill, in new Section 171.852(1), Tax Code, between "hired" and "on" (senate engrossment, page 1, line 15), insert "for a position located or based in this state".

(2) In SECTION 1 of the bill, in new Section 171.852(3)(A), Tax Code, between "corporation" and "for" (senate engrossment, page 1, line 23), insert "in a position located or based in this state".

(3) In SECTION 1 of the bill, strike new Section 171.853(b), Tax Code (senate engrossment, page 2, lines 7-8), and substitute:

(b) A corporation may claim the credit only for wages paid the qualified employee:

- (1) for a position located or based in this state; and
- (2) during the first two years of employment.

Amendment No. 1 was adopted without objection.

SB 63, as amended, was passed to third reading.

SB 1458 ON SECOND READING
(McCall - House Sponsor)

SB 1458, A bill to be entitled An Act relating to the management of state agency and local government electronic projects, equipment, and contracts, to the purchase and use of certain advanced technological equipment, and to the use of outside personnel by the comptroller of public accounts.

Amendment No. 1

Representative McCall offered the following amendment to **SB 1458**:

Amend **SB 1458** (House committee printing) as follows:

- (1) In Article 1, in the heading (page 1, line 7), strike "OFFICE".
- (2) In Section 1.01 of the bill, after added Subchapter A, Chapter 2055, Government Code (page 2, between lines 12 and 13), insert:
Sec. 2055.003. SUNSET PROVISION. The office is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished September 1, 2005.
- (3) In Section 1.01 of the bill, in added Section 2055.057, Government Code (page 4, line 25, through page 5, line 1), strike: "The office shall submit the model for approval by the governor and adoption by the department as a rule."
- (4) In Section 1.01 of the bill, strike added Section 2055.057(b), Government Code (page 5, lines 2 through 6), and substitute:
(b) The department may include in its appropriations request a proposal for funding projects selected under Section 2055.101.
- (5) In Section 1.01 of the bill, strike added Sections 2055.104 and 2055.105, Government Code (page 7, line 7, through page 8, line 26), and renumber the sections of added Subchapter C, Chapter 2055, Government Code, accordingly.
- (6) In Section 1.01 of the bill, in added Subchapter C, Chapter 2055, Government Code, after added Section 2055.107, Government Code (page 10, between lines 23 and 24), insert an appropriately numbered section:
Sec. 2055. . . . LEGISLATIVE OVERSIGHT COMMITTEE. (a) The Legislative Oversight Committee for Electronic Government Projects is created to oversee the establishment of electronic government projects by the office and state agencies.
(b) The speaker of the house of representatives and the lieutenant governor shall appoint the members of the committee and assign duties as appropriate.
(c) The committee is abolished and this section expires December 31, 2004.
- (7) In Section 1.01 of the bill, strike added Subchapter D, Chapter 2055, Government Code (page 10, line 25, through page 14, line 9), and redesignate

the remaining subchapters and sections of Chapter 2055, Government Code, and correct the cross-references to those sections, accordingly.

(8) In Section 1.01 of the bill, strike added Section 2055.204, Government Code (page 16, line 17, through page 17, line 8).

(9) In Sections 1.02 through 1.07 of the bill, correct the cross-references to the sections in added Chapter 2055, Government Code, accordingly.

(10) In Section 1.02 of the bill, in amended Section 2054.055(b)(5), Government Code (page 17, line 25), after "resources;", insert "and".

(11) In Section 1.02 of the bill, in amended Section 2054.055(b), Government Code (page 18, lines 8 through 10), strike "; and

(7) include appropriate information from the report prepared under Section 2055.204".

(12) In Section 1.04 of the bill (page 18, line 19), strike "Subchapter D, Chapter 2055" and substitute "Section 2055.106".

(13) In Section 1.04 of the bill (page 18, lines 20 and 21), strike "as provided under Section 2055.153, Government Code, as added by this article" and substitute "under that section".

(14) In Section 1.06 of the bill (page 19, line 4), strike "2055.057, 2055.101, 2055.102, and 2055.105" and substitute "2055.101 and 2055.102".

(15) In Article 1 of the bill, after Section 1.07 (page 19, between lines 15 and 16), insert:

SECTION 1.08. FUNDING DATE. Section 2055.101(c), Government Code, as added by this article, applies only to projects to be funded after September 1, 2003.

(16) Strike Article 2 of the bill (page 19, line 16, through page 23, line 24) and renumber the articles and sections of the bill accordingly.

(17) In Section 3.02 of the bill, in added Section 2054.113(b), Government Code (page 27, line 3), insert after the period:

In this subsection, "infrastructure" does not include the development of applications, and the supporting platform, for electronic government projects.

(18) In Section 3.03 of the bill, in added Subchapter J, Chapter 2054, Government Code, strike added Section 2054.301, Government Code (page 27, lines 8 through 10), and renumber the sections of Subchapter J, Chapter 2054, Government Code, accordingly.

(19) In Section 3.03 of the bill, in added Section 2054.303(2), Government Code (page 27, lines 17 and 18), strike ", with input from the oversight committee,".

(20) In Section 3.03 of the bill, in added Section 2054.303(3), Government Code (page 27, lines 21 and 22), strike ", in coordination with the oversight committee,".

(21) In Section 3.03 of the bill, in added Subchapter J, Chapter 2054, Government Code, strike added Section 2054.304, Government Code (page 28, lines 3 through 26), and renumber the sections of Subchapter J, Chapter 2054, Government Code, accordingly.

(22) In Section 3.03 of the bill, in added Section 2054.305, Government Code (page 29, line 3), strike "oversight committee" and substitute "department".

(23) In Section 3.03 of the bill, in added Section 2054.306, Government

Code (page 29, line 9), strike "oversight committee" and substitute "department".

(24) In Article 3 of the bill (page 30, lines 7 through 11), strike Section 3.05 of the bill.

(25) In Section 4.01 of the bill, strike added Sections 2177.0001(1), (2), (4), and (6), Government Code (page 30, lines 16 through 25, page 31, lines 2 through 4, and page 31, lines 8 and 9), and renumber the subdivisions of added Section 2177.0001, Government Code, accordingly.

(26) In Section 4.01 of the bill, in added Section 2177.0001, Government Code (page 31, between lines 1 and 2), insert an appropriately numbered subdivision:

() "Political subdivision" includes a school district.

(27) Strike Sections 4.02 through 4.05 of the bill (page 31, line 10, through page 39, line 24) and renumber the sections of the article accordingly.

(28) In Section 4.06 of the bill, in added Section 2177.005, Government Code (page 40, line 3), strike "procurement".

(29) Strike Articles 5 through 8 of the bill (page 40, line 5, through page 48, line 1) and renumber the articles and sections of the bill accordingly.

(30) In Article 9 of the bill, after Section 9.03 (page 50, between lines 4 and 5), insert the following appropriately numbered sections:

SECTION _____. TEXAS ONLINE DIVISION. Subchapter I, Chapter 2054, Government Code, as added by Senate Bill 187, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Section 2054.2645 to read as follows:

Sec. 2054.2645. SUNSET PROVISION. The division is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the division is abolished September 1, 2005.

SECTION _____. ELECTRONIC GRANTS MANAGEMENT SYSTEM.

(a) The Department of Information Resources shall study the costs and benefits of establishing an electronic grants management system for state grant programs.

(b) The Department of Information Resources may develop a plan for, and implement, an electronic grants management system for programs that would receive the greatest benefit from the system.

SECTION _____. SPECIFICATIONS FOR ELECTRONIC DATA CLEARINGHOUSE. Not later than January 1, 2003, the Department of Information Resources, in coordination with the comptroller of public accounts and other state agencies, local governments, federal agencies, the Texas Conference of Urban Counties, the Texas Association of Counties, and the Texas Municipal League, shall develop specifications, including procedures and implementation methods, for a statewide electronic data clearinghouse. The Department of Information Resources shall identify ways to streamline and reduce reporting requirements on counties and municipalities, when practical, through implementation of the clearinghouse.

Amendment No. 1 was adopted without objection.

SB 1458, as amended, was passed to third reading.

SB 1390 ON SECOND READING
(Kuempel - House Sponsor)

SB 1390, A bill to be entitled An Act relating to the penalties for operating certain facilities without obtaining a permit under the Texas Clean Air Act.

SB 1390 was passed to third reading.

SB 372 ON SECOND READING
(Longoria - House Sponsor)

SB 372, A bill to be entitled An Act relating to the reestablishment of service credit in a public retirement system participating in the proportionate retirement program.

SB 372 was passed to third reading.

SB 8 ON SECOND READING
(Farabee - House Sponsor)

SB 8, A bill to be entitled An Act relating to discrimination in health care rates and reimbursement; providing administrative and civil penalties.

Amendment No. 1 (Committee Amendment No. 1)

Representative Seaman offered the following committee amendment to **SB 8**:

in SECTION 3 of the bill, strike the existing Sections 4 and 5, Art. 21.53N, and substitute the following in lieu thereof:

Sec. 4. PENALTIES. (a) A health benefit plan as described by Section 2 of this article that is found to be in violation of or failing to comply with this article is subject to the sanctions authorized by Chapter 82 of this code. The commissioner may also use the cease and desist procedures authorized by Chapter 83 of this code and, in accordance with the provisions of that chapter, direct the plan to make complete restitution, which shall not be less than the amount of economic damages, to each Texas insured or health care provider that is harmed by the violation. Such restitution may include reasonable attorney's fees incurred by a person making a complaint under this article. Notwithstanding the provisions of this section, the commissioner may order the greater of complete or economic damages.

(b) In addition to imposing the sanctions authorized by Subsection (a) of this section, the commissioner may impose an administrative penalty in accordance with Chapter 84 of this code. Upon a finding that the plan knowingly violated the provisions of this article, the commissioner may impose an administrative penalty not to exceed \$25,000 in addition to the penalty authorized by Section 84.022.

(c) The commissioner shall make a determination of a violation of this article and impose the appropriate sanctions within 120 days of the date a complaint alleging a violation is filed.

(d) The procedural requirements established by Chapter 84, Subchapter C, of this codes shall govern the imposition of sanctions and administrative penalties under this article.

Sec. 5. JUDICIAL REVIEW. (a) A person, including a physician or provider, affected by an order of the commissioner regarding a violation of

this article may file an appeal in district court. The standard of review under this subsection is substantial evidence.

(b) If the commissioner fails to make a determination of a complaint within the time limit prescribed by Subsection (c) of Section 4 of this article, the person who initiated the complaint may bring an action in the district court for a violation of this article. The action must be commenced within 12 months after the date on which the time limit for the commissioner's determination expired.

(c) In a suit filed under Subsection (b) of this section, a court may impose the same or similar sanctions as provided under Section 4 (a) of this article, including an additional civil penalty of \$25,000 if the trier of fact finds that the defendant knowingly violated the provisions of this article. In addition, if the claimant prevails in the action, the court may award reasonable attorney's fees and court costs, including any reasonable and necessary expert witness fees.

(d) On a finding by the court that an action under Subsection (b) of this section was groundless and brought in bad faith or brought for the purpose of harassment, the court shall award the defendant reasonable and necessary attorney's fees.

Amendment No. 1 was adopted without objection.

SB 8, as amended, was passed to third reading. (Corte, Christian, Crabb, Hope, E. Jones, Madden, Shields, and Williams recorded voting no)

SB 1496 ON SECOND READING (Danburg - House Sponsor)

SB 1496, A bill to be entitled An Act relating to the reassignment of the responsibilities of the Child Care Development Board.

Amendment No. 1

Representative Danburg offered the following amendment to **SB 1496**:

Amend **SB 1496** immediately before SECTION 15 of the bill (House committee report, page 12, between lines 17 and 18), by inserting the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION __. If the General Services Commission is abolished under Section 2152.002, Government Code, any reference in this Act to the "commission" or to the General Services Commission is a reference to the Texas Workforce Commission.

Amendment No. 1 was adopted without objection.

Amendment No. 2

On behalf of Representatives Wohlgemuth and Chavez, Representative Danburg offered the following amendment to **SB 1496**:

Amend **SB 1496** as follows:

On page 4, line 21, between "Children" and the period, insert "or the National Child Care Association".

Amendment No. 2 was adopted without objection.

SB 1496, as amended, was passed to third reading.

SB 1190 ON SECOND READING
(McCall and George - House Sponsors)

SB 1190, A bill to be entitled An Act relating to technology development and transfer by institutions of higher education.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative F. Brown, Representative McCall offered the following committee amendment to **SB 1190**:

Amend **SB 1190** (senate engrossment) by inserting the following at the end of proposed Chapter 153, Education Code (on page 5, between lines 22 and 23):

Sec. 153.008. BIENNIAL REPORT. Not later than December 1 of each even-numbered year, the Texas Higher Education Coordinating Board shall report to the governor and to the legislature regarding activities conducted at institutions of higher education under this chapter. The form of the report shall be developed by the Texas Higher Education Coordinating Board in consultation with institutions of higher education and shall include the following measures for each institution of higher education:

(1) revenues received from licenses, royalties, fees, cashed-in equity and other forms of income permitted by this chapter;

(2) the number of shares of stock or other equity interest held under agreements created pursuant to this chapter;

(3) the fair market value of stock or other equity interests held in publicly-traded enterprises created pursuant to this chapter;

(4) new invention disclosures received;

(5) the number of new patent applications filed and new patents granted;

(6) the number of new license agreements executed;

(7) the number of new corporations, partnerships or other business entities established to commercialize intellectual property owned by the institution of higher education; and

(8) direct expenditures for all activities conducted under this chapter.

Amendment No. 1 was adopted without objection.

SB 1190, as amended, was passed to third reading.

(Tillery now present)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Tillery requested permission for the Committee on Pensions and Investments to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Pensions and Investments, 4 p.m. today, speakers committee room, for a formal meeting, to consider **SB 983**, **SB 1545**, and **HR 1077**.

CSSB 292 ON SECOND READING
(Telford - House Sponsor)

CSSB 292, A bill to be entitled An Act relating to programs and systems administered by the Employees Retirement System of Texas.

Amendment No. 1

Representative Telford offered the following amendment to **CSSB 292**:

Amend **CSSB 292**, in SECTION 7 of the bill, in proposed Subsection (a)(1) of Section 814.009, Government Code, after the semicolon (house committee printing page 8, line 15), by striking "and" and substituting "or".

Amendment No. 1 was adopted without objection.

CSSB 292, as amended, was passed to third reading. (Crabb, Heflin, and Shields recorded voting no)

SB 691 ON SECOND READING
(Naishtat - House Sponsor)

SB 691, A bill to be entitled An Act relating to the creation of an assisted living facility trust fund.

SB 691 was passed to third reading.

SB 1690 ON SECOND READING
(Y. Davis - House Sponsor)

SB 1690, A bill to be entitled An Act relating to the taxation of insurance companies and certain insurance agents.

Amendment No. 1 (Committee Amendment No. 1)

Representative Y. Davis offered the following amendment to **SB 1690**:

Amend **SB 1690** by inserting a new SECTION on page 4, after line 2 and making necessary conforming changes:

SECTION __. Section 14, Article 4.10 of the Insurance Code is amended to read as follows:

~~Sec. 14. No occupational tax shall be levied on insurance carriers or companies herein subjected to this premium receipts tax by any county, city, or town. The taxes in this article shall constitute all taxes collectible under the laws of Texas against any such insurance carrier, except maintenance taxes specifically levied under the laws of Texas and assessed by the commissioner and administered by the comptroller. Farm mutuals, local mutual aid associations and burial associations are not subject to the franchise tax.~~

~~No other tax shall be levied or collected from any insurance carrier by the state, county, or city or any town, but this law shall not be construed to prohibit the levy and collection of state, county, and municipal taxes upon the real and personal property of such carrier.~~

Amend **SB 1690** by deleting all of SECTION 4 on page 5, line 16, and substituting the following:

SECTION __. Section 9, Article 4.11 of the Insurance Code is repealed.

Amendment No. 1 was adopted without objection.

SB 1690, as amended, was passed to third reading.

SB 390 ON SECOND READING
(Hilbert - House Sponsor)

SB 390, A bill to be entitled An Act relating to an exemption from the requirements of the open meetings law for certain negotiations involving the Texas Lottery Commission.

SB 390 was passed to third reading.

(Hochberg and Marchant now present)

SB 975 ON SECOND READING
(Hochberg - House Sponsor)

SB 975, A bill to be entitled An Act relating to electronic courses in public schools.

Amendment No. 1 (Committee Amendment No. 1)

Representative Hochberg offered the following committee amendment to **SB 975**:

Amend **SB 975** as follows:

(1) In SECTION 1 of the bill, in added Section 29.903(c), Education Code (page 2, line 1), strike "or".

(2) In SECTION 1 of the bill, in added Section 29.903(c), Education Code (page 2, line 2), strike the period and substitute "; or".

(3) In SECTION 1 of the bill, in added Section 29.903(c), Education Code (page 2, between lines 2 and 3), insert the following:

(3) population of underserved gifted and talented students, as determined by the commissioner.

Amendment No. 1 was adopted without objection.

SB 975, as amended, was passed to third reading.

CSSB 1411 ON SECOND READING
(Maxey, Gallego, Eiland, and Keel - House Sponsors)

CSSB 1411, A bill to be entitled An Act relating to dental services provided under the medical assistance program.

Amendment No. 1

Representative Maxey offered the following amendment to **CSSB 1411**:

Amend **CSSB 1411** in SECTION 1 of the bill, in added Section 32.053(a), Human Resources Code (House Committee Report, page 1, lines 11 and 12), by striking "parameters of care of the American Dental Association" and substituting "American Dental Association's parameters of care for dentistry".

Amendment No. 1 was adopted without objection.

CSSB 1411, as amended, was passed to third reading.

SB 25 ON SECOND READING
(Goodman - House Sponsor)

SB 25, A bill to be entitled An Act relating to the classification of manslaughter and intoxication manslaughter as violent offenses punishable by a determinate sentence.

Amendment No. 1

Representative Goodman offered the following amendment to **SB 25**:

Amend **SB 25**, between SECTIONS 1 and 2 of the bill (house committee report, page 2, between lines 23 and 24), by inserting the following SECTION and renumbering the SECTIONS of the bill appropriately:

SECTION 2. Section 58.003(b), Family Code, is amended to read as follows:

(b) A court may not order the sealing of the records of a person who has received a determinate sentence for engaging in delinquent conduct that violated a penal law listed in Section 53.045, other than Subsection (a)(3) or (a)(16), or engaging in habitual felony conduct as described by Section 51.031.

Amendment No. 1 was adopted without objection.

SB 25, as amended, was passed to third reading.

COMMITTEE GRANTED PERMISSION TO MEET

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

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Juvenile Justice and Family Issues, 4:30 p.m. today, speakers committee room, for a formal meeting.

SB 40 ON SECOND READING
(Naishtat - House Sponsor)

SB 40, A bill to be entitled An Act relating to tuition assistance for licensed vocational nursing students who agree following their licensure to practice in long-term care facilities.

SB 40 was passed to third reading.

SB 159 ON SECOND READING
(Naishtat - House Sponsor)

SB 159, A bill to be entitled An Act relating to establishing a competitive grant program for projects that are designed to improve the quality of life for residents of a convalescent or nursing home and that could serve as a model of best practices for the convalescent and nursing home industry.

SB 159 was passed to third reading.

SB 217 ON SECOND READING
(Hilderbran, Keel, and Ellis - House Sponsors)

SB 217, A bill to be entitled An Act relating to the application and enforcement of traffic regulations in certain private subdivisions.

Amendment No. 1

Representative Ellis offered the following amendment to **SB 217**:

Amend **SB 217** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS appropriately:

SECTION _____. Section 542.007(a), Transportation Code, is amended to read as follows:

(a) This section applies only to a subdivision that is located in the unincorporated area of a county with a population of 100,000 [~~10,000~~] or less.

Amendment No. 1 was adopted without objection.

SB 217, as amended, was passed to third reading.

CSSB 220 ON SECOND READING
(Alexander - House Sponsor)

CSSB 220, A bill to be entitled An Act relating to the regulation and enforcement of weight limitations and safety standards for certain motor vehicles and the enforcement of certain other traffic laws; providing penalties.

Amendment No. 1

Representative Alexander offered the following amendment to **CSSB 220**:

Amend **CSSB 220** as follows:

On page 5, line 19, after Section 621.410(d), add the following new subsection (e):

"(e) This section does not apply to a vehicle that transports material regulated under Section 623.161."

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Gallego offered the following amendment to **CSSB 220**:

Amend **CSSB 220** as follows:

(1) In SECTION 3 of the bill, in amended Section 621.101(a)(1), Transportation Code (Committee Printing, page 2, lines 19 and 20), strike Subdivision (B) and substitute:

~~[(B) 20,000 pounds on low-pressure tires]~~, including all enforcement tolerances;

(2) In SECTION 3 of the bill, in amended Section 621.101(b), Transportation Code (Committee Printing, page 3, lines 24-26), strike "regardless of tire ratings, axle spacing (bridge), and number of axles [including all enforcement tolerances]" and substitute "including all enforcement tolerances, regardless of tire ratings, axle spacing (bridge), and number of axles".

(3) In SECTION 3 of the bill, in amended Section 621.101, Transportation Code (Committee Printing, page 4, lines 7-16), strike Subsection (d) and substitute:

~~[(d) For the purposes of this section, the load carried on an axle is the total load transmitted to the road by all wheels the centers of which can be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.]~~

(4) Insert the following appropriately numbered SECTION and renumber subsequent SECTIONS of the bill accordingly:

SECTION __. Section 621.001, Transportation Code, is amended by adding Subdivisions (10) and (11) to read as follows:

(1) "Single axle weight" means the total weight transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

(11) "Tandem axle weight" means the total weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel transverse vertical planes spaced more than 40 inches and not more than 96 inches apart, extending across the full width of the vehicle.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative McReynolds offered the following amendment to CSSB 220:

Amend **CSSB 220** in SECTION 5 of the bill, added Section 621.410(a), Transportation Code, (Committee Printing, page 5, line 3), between "cargo" and "transported" by inserting "other than timber or another agricultural product in its natural state".

Amendment No. 3 was adopted without objection.

CSSB 220, as amended, was passed to third reading.

SB 1818 ON SECOND READING (Telford - House Sponsor)

SB 1818, A bill to be entitled An Act relating to the authority of the board of regents of The Texas A&M University System regarding real property, permanent improvements, and eminent domain.

SB 1818 was passed to third reading.

SB 1345 ON SECOND READING (B. Turner - House Sponsor)

SB 1345, A bill to be entitled An Act relating to the interception of wire, oral, or electronic communications, to the use of pen registers and trap and trace devices, and to the civil and criminal consequences of improperly engaging in those activities.

SB 1345 was passed to third reading. (Corte recorded voting no)

SB 749 ON SECOND READING
(Haggerty - House Sponsor)

SB 749, A bill to be entitled An Act relating to the authority of the Texas Natural Resource Conservation Commission to participate in environmental projects in Mexico.

SB 749 was passed to third reading. (Corte recorded voting no)

CSSB 273 ON SECOND READING
(Tillery - House Sponsor)

CSSB 273, A bill to be entitled An Act relating to systems and programs administered by the Teacher Retirement System of Texas; providing a penalty.

Amendment No. 1

Representative Tillery offered the following amendment to **CSSB 273**:

Amend **CSSB 273** (house committee printing) as follows:

(1) In SECTION 11 of the bill, in amended Subsection (a), Section 825.408, Government Code (page 8, line 9), strike "fifth business [~~11th~~] day" and substitute "seventh business [~~11th~~] day".

(2) In SECTION 14 of the bill, in proposed Subdivision (1) of that section (page 11, lines 3 and 4), strike ", without a reduction for retirement at an early age".

(3) In SECTION 14 of the bill, in proposed Subdivision (2) of that section (page 11, line 7), strike "defined by the commissioner of education" and substitute "determined by the board of trustees of a school district as provided by Section 824.602(m), Government Code".

(4) In SECTION 16 of the bill, in amended Subsection (h), Section 16, Article 3.50-4, Insurance Code (page 20, line 14), strike "fifth" and substitute "seventh".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Tillery offered the following amendment to **CSSB 273**:

Amend **CSSB 273** (house committee printing) as follows:

(1) In SECTION 15 of the bill, strike proposed Subsection (c) of Section 6, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes) (page 14, lines 15 through 17), and reletter subsequent subsections appropriately.

(2) In SECTION 15 of the bill, in proposed Subsection (d) of Section 6, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), strike "adopt rules to administer this section and Sections 5 and 7" (page 14, line 20) and insert "adopt rules only to administer this section and Sections 5, 7, 8, and 11".

(3) In SECTION 15 of the bill, in proposed Subsection (g) of Section 6, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), between "reject" and "the" (page 15, line 3), insert "or revoke".

(4) In SECTION 15 of the bill, in proposed Subsection (g) of Section 6, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), between "section" and "of" (page 15, line 5), insert "or Section 5(c) of this Act".

(5) In SECTION 15 of the bill, in proposed Subsection (h) of Section 6, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), between "the" and "notice" (page 15, line 8), insert "uniform".

(6) In SECTION 15 of the bill, after proposed Section 6(h), Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes) (page 15, between lines 9 and 10), insert the following appropriately lettered subsection:

() A certification or recertification remains in effect for five years unless rejected or revoked.

(7) In SECTION 15 of the bill, in proposed Subdivision (6) of Section 9, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), between "company" and "that" (page 16, line 24), insert "or from an agent or affiliate of a company".

(8) In SECTION 15 of the bill, in proposed Subdivision (7) of Section 9, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), between "agent" and the period (page 16, line 27), insert "of a company that offers a qualified investment product".

(9) In SECTION 15 of the bill, in proposed Subsection (b) of Section 11, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), between "post the" and "notice" (page 17, line 22), insert "form of the".

(10) In SECTION 15 of the bill, in proposed Subsection (c) of Section 11, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), between "must" and the colon (page 17, line 23), insert "be uniform and".

(11) In SECTION 15 of the bill, in proposed Subsection (c)(2)(E)(vii) of Section 11, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), between "are" and "available" (page 18, line 21), insert "guaranteed to be".

(12) In SECTION 15 of the bill, in proposed Subsection (c)(2)(E)(viii) of Section 11, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), after the semicolon (page 18, line 26), strike "and".

(13) In SECTION 15 of the bill, after proposed Subsection (c)(2)(E)(ix) of Section 11, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes) (page 19, line 1), strike "and" and substitute the following:

(x) whether the annuity guarantees the participant the right to surrender a percentage of the surrender value each year, and the percentage, if any; and

(xi) whether the annuity guarantees the interest rate associated with any settlement option; and

(14) In SECTION 15 of the bill, in proposed Subsection (c)(3)(D) of Section 11, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962

(Article 6228a-5, Vernon's Texas Civil Statutes) (page 19, line 11), strike "qualified investment product" and substitute "eligible qualified product through a salary reduction agreement".

(15) In SECTION 15 of the bill, strike proposed Subsection (d) of Section 11, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes) (page 19, lines 18 through 20), and substitute the following:

(d) A variable annuity must be accompanied by:

(1) a notice that includes any item listed in Subsection (c) of this section that is applicable to variable annuities;

(2) the prospectus; and

(3) any other purchasing information required by law.

(16) In SECTION 26 of the bill, strike "6(h)" (page 29, line 6) and substitute "6(g)".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Tillery offered the following amendment to **CSSB 273**:

Amend **CSSB 273**, between SECTIONS 14 and 15 of the bill (house committee printing page 11, between lines 10 and 11), by inserting the following appropriately numbered sections and renumbering subsequent sections of the bill accordingly:

SECTION ____ Section 1, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), as amended by Chapters 1340 and 1341, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

Sec. 1. (a) This section and Section 2 of this Act apply to:

(1) the governing boards [~~Local Boards of Education of the Public Schools of this State, the Governing Boards~~] of [~~the~~] state-supported institutions of higher education;

(2) [;] the Texas Higher Education Coordinating Board;

(3) [;] the Texas Education Agency;

(4) [;] the Texas School for the Deaf;

(5) [;] the Texas School for the Blind and Visually Impaired;

(6) [;] the Texas Department of Mental Health and Mental Retardation and the state schools, state hospitals, and other facilities and institutions under its jurisdiction;

(7) [;] the Texas Department of Health and facilities and institutions under its jurisdiction;

(8) [;] the Texas Youth Commission and facilities and institutions under its jurisdiction;[;] and

(9) the governing boards of Centers for Community Mental Health and Mental Retardation Services, county hospitals, city hospitals, city-county hospitals, hospital authorities, hospital districts, affiliated state agencies, and each of their political subdivisions.

(b) An entity described by Subsection (a) of this section [~~of each of them;~~] may enter into agreements with the entity's [~~their~~] employees for the purchase of annuities or for contributions to any type of investment for the entity's [~~their~~]

employees as authorized in Section 403(b) of the Internal Revenue Code of 1986 [1954], and its subsequent amendments [as it existed on January 1, 1981].

SECTION _____. Section 2, Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. (a) If an employee of an ~~[a governmental]~~ entity covered by Section 1 of this Act is paid by the Comptroller of Public Accounts, the comptroller may take the action, in regard to that employee, that is authorized by Subsection (b) of this section. If an employee of an ~~[a governmental]~~ entity covered by Section 1 is not paid by the comptroller, the governing board of the ~~[governmental]~~ entity may take the action in regard to that employee.

(b) The comptroller or the governing board, as appropriate ~~[the case may be]~~, may:

(1) reduce the salary of participants when authorized by the participants and shall apply the amount of the reduction to the purchase of annuity contracts or to contributions to any type of investment authorized in Section 403(b), ~~[of the]~~ Internal Revenue Code of 1986 [1954], and its subsequent amendments [as it existed on January 1, 1981], the exclusive control of which will vest in the participants; and

(2) develop a system to allow or require participants to electronically authorize:

- (A) participation under this Act;
- (B) purchases of annuity contracts; and
- (C) contributions to investments.

(c) The employee is entitled to designate any agent, broker, or company through which the annuity or investment is to be purchased.

Amendment No. 3 was adopted without objection.

CSSB 273, as amended, was passed to third reading.

SB 1224 ON SECOND READING (B. Turner - House Sponsor)

SB 1224, A bill to be entitled An Act relating to occupations regulated by the Texas Commission on Private Security.

Amendment No. 1

Representative B. Turner offered the following amendment to **SB 1224**:

Amend **SB 1224** (house committee printing) as follows:

(1) In SECTION 1 of the bill, strike amended Subdivisions (1) and (6), Section 1702.002, Occupations Code (page 1, lines 7 through 18), and substitute the following:

(1) "Alarm system" means an alarm system, burglar alarm signal device, electronic keypad with a panic alarm feature, burglar alarm, robbery alarm, closed circuit [television] camera used as a detection device, medical alert services button, or remote panic alarm button ~~[still camera used to signal the presence of an emergency to which law enforcement or emergency services are expected to respond]~~.

(6) "Detection device" means an electronic device used as a part of a burglar, emergency, or robbery alarm, including an electronic security control panel ~~[a control]~~, audible alarm, communications device, motion

detector, door or window switch, sound detector, vibration detector, light beam, pressure mat, wiring used as part of an alarm device, an electronic device used to limit a person's access into a structure or gate compound, including a card reader, proximity reader, push-button keypad, door or gate entry device, or similar device.

(2) Between SECTIONS 14 and 15 of the bill (page 9, between lines 12 and 13), insert the following appropriately numbered section:

SECTION _____. Subsection (b), Section 1702.324, Occupations Code, is amended to read as follows:

(b) This chapter does not apply to:

(1) a manufacturer or a manufacturer's authorized distributor who sells equipment to a license holder that is used in the operations for which the person is required to be licensed;

(2) a person engaged exclusively in the business of obtaining and providing information to:

(A) determine creditworthiness;

(B) collect debts; or

(C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;

(3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(4) a locksmith who:

(A) does not install or service detection devices;

(B) does not conduct investigations; and

(C) is not a security services contractor;

(5) a person who:

(A) is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes; and

(B) does not perform any other service that requires a license under this chapter;

(6) a person who:

(A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;

(B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter; and

(C) does not perform any other act that requires a license under this chapter;

(7) a licensed professional engineer practicing engineering or directly supervising engineering practice under The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), including forensic analysis, burglar alarm system engineering, and necessary data collection;

(8) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle association by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture;

(9) a landman performing activities in the course and scope of the landman's business;

(10) an attorney while engaged in the practice of law;

(11) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition; ~~[or]~~

(12) an admitted insurer, insurance adjuster, agent, or insurance broker licensed by the state, performing duties in connection with insurance transacted by that person;

(13) a person who:

(A) installs, repairs, or performs services on garage door operators and garage door remote controllers in single and multiple family residential structures; and

(B) does not perform any other act that requires a license under this chapter;

(14) a person who:

(A) installs, repairs, or performs services on gate operators and remote gate controllers in single family residential structures or performs services on gate operators in multiple family residential or commercial facilities; and

(B) does not perform any other act that requires a license under this chapter; or

(15) a person who installs, repairs, or performs services on a single door access system that is not connected to a central system.

(3) In SECTION 17 of the bill (page 9, line 23, through page 10, line 4), change the references to sections of the bill accordingly to take into account the renumbering of SECTIONS of the bill.

(4) In SECTION 18 of the bill, between "Section 1702.002," and "and Sections 1702.062," (page 10, line 9) insert "Subsection (b), Section 1702.324,".

(5) Renumber the sections of the bill accordingly.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative B. Turner offered the following amendment to **SB 1224**:

Amend **SB 1224** (house committee printing) as follows:

(1) In SECTION 6 of the bill, in amended Subsection (a) of Section 1702.062, Occupations Code (page 3, line 15), strike "~~(a)~~" and substitute "(a)".

(2) In SECTION 6 of the bill, strike amended Subsection (b) of Section 1702.062, Occupations Code (page 5, lines 4 through 11), and substitute:

(b) In addition to ~~other~~ fees established under this chapter or the General Appropriations Act, the commission may charge a fee each time the commission requires a person regulated under this chapter to resubmit a set of fingerprints for processing by the commission during the application process for a license, registration, or commission. The commission shall set the fee in an amount that is reasonable and necessary to cover the commission's administrative expenses related to processing the fingerprints.

(c) A person whose pocket card has not expired is not eligible to receive from the commission another pocket card in the same classification in which the pocket card is held.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative B. Turner offered the following amendment to **SB 1224**:

Amend **SB 1224** (house committee printing) as follows:

(1) In SECTION 12 of the bill, in added Subsection (a), Section 1702.309, Occupations Code, in the first sentence, strike "in handgun proficiency" (page 7, line 8).

(2) In SECTION 12 of the bill, in added Subsection (a), Section 1702.309, Occupations Code, strike the third sentence (page 7, line 11 through line 19) and substitute the following:

The course must include at least six hours of instruction determined by the director of the commission.

(3) In SECTION 13 of the bill, in amended Subsection (a), Section 1702.309, Occupations Code, in the first sentence, strike "in handgun proficiency" (page 8, line 4) and substitute "~~[in handgun proficiency]~~".

(4) In SECTION 13 of the bill, in amended Subsection (a), Section 1702.309, Occupations Code, strike the third sentence (page 8, lines 6 through 13) and substitute the following:

The course must include[:

~~[(1)]~~ at least six ~~[two]~~ hours of instruction determined by the director of the commission ~~[on one or more of the subjects listed in Section 1702.1675(g); and~~

~~[(2) other information that the director determines is appropriate].~~

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Geren offered the following amendment to **SB 1224**:

Amend **SB 1224** (house committee printing) as follows:

(1) In SECTION 14 of the bill, in amended Subsection (d)(1) of Section 1702.323, Occupations Code, after the semicolon (page 9, line 1), strike "and" and substitute "~~[and]~~".

(2) In SECTION 14 of the bill, in amended Subsection (d)(2) of Section 1702.323, Occupations Code, strike "or the name of the employer" (page 9, line 4) and substitute "~~[or the name of the employer]~~".

(3) In SECTION 14 of the bill, at the end of amended Subsection (d)(2) of Section 1702.323, Occupations Code, between "apparel" and the period (page 9, line 5), insert the following:
; and

(3) performs a duty described by Section 1702.222

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Hawley offered the following amendment to **SB 1224**:

Amend **SB 1224** (house committee printing) as follows:

(1) Add the following appropriately numbered section:

SECTION __. Section 1702.322, Occupations Code, is amended to read as follows:

Sec. 1702.322. LAW ENFORCEMENT PERSONNEL. This chapter does not apply to:

(1) a person who has full-time employment as a peace officer and who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, extra job coordinator, or watchman if the officer:

(A) is employed in an employee-employer relationship or employed on an individual contractual basis;

(B) is not in the employ of another peace officer;

(C) is not a reserve peace officer; and

(D) works as a peace officer on the average of at least 32 hours a week, is compensated by the state or a political subdivision of the state at least at the minimum wage, and is entitled to all employee benefits offered to a peace officer by the state or political subdivision;

(2) a reserve peace officer while the reserve officer is performing guard, patrolman, or watchman duties for a county and is being compensated solely by that county;

(3) a reserve peace officer for a county or for a department, precinct, or political subdivision of a county if the county has a population of less than 20,000, while the reserve officer is performing duties at an event or function sponsored or sanctioned by a political subdivision, school, or nonprofit organization in a county with a population of less than 20,000;

(4) a peace officer acting in an official capacity in responding to a burglar alarm or detection device; or

(5) [~~(4)~~] a person engaged in the business of electronic monitoring of an individual as a condition of that individual's community supervision, parole, mandatory supervision, or release on bail, if the person does not perform any other service that requires a license under this chapter.

(2) In SECTION 17 of the bill (page 9, line 23 through page 10, line 4), change the references to sections of the bill accordingly to take into account the renumbering of the SECTIONS of the bill.

(3) In SECTION 18 of the bill, between "1702.115," and "and" (page 10, line 9), insert "1702.322,".

(4) Renumber the sections of the bill accordingly.

Amendment No. 5 was adopted. (Keel, Shields, and Talton recorded voting no)

SB 1224, as amended, was passed to third reading.

CSSB 431 ON SECOND READING
(Eiland - House Sponsor)

CSSB 431, A bill to be entitled An Act relating to a specialty insurance agent license for certain persons who rent real property for residential use.

Amendment No. 1

Representative Eiland offered the following amendment to **CSSB 431**:

Amend **CSSB 431** (house committee printing) as follows:

(1) In Section 2 of the bill, in amended Section 6(e), Article 21.09, Insurance Code (page 3, between line 10 and 11), insert the following new Subdivision (2) and renumber subsequent subdivisions accordingly:

(2) the license holder may not coerce the consumer to purchase an insurance product offered by the license holder;

(2) In SECTION 2 of the bill, in amended Section 6, Article 21.09, Insurance Code, between "type." and "[RULES]" (page 4, line 2), insert the following new Subsection (g):

(g) A license holder under this section may not coerce or attempt to coerce, implicitly or explicitly, a consumer purchase an insurance product offered by the license holder. A person who violates this subsection is subject to discipline under Section 5, Article 21.01-2 of this code.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Eiland offered the following amendment to **CSSB 431**:

Amend **CSSB 431** (house committee printing), in SECTION 2 of the bill, in amended Section 6, Article 21.09, Insurance Code (page 4, line 2), between "type." and "[RULES]", by inserting new Subsections (g) and (h) to read as follows:

(g) A specialty license holder under this section is not authorized to act as an agent for the Texas Windstorm Insurance Association.

(h) If a specialty license holder under this section issues a policy covering residential rental property located in a catastrophe area designated under Article 21.49 of this code, the specialty license holder shall include a conspicuous disclaimer in the lease agreement, in the format prescribed by the commissioner, stating that windstorm and hail coverage may be available through the Texas Windstorm Insurance Association and agents authorized to offer that coverage.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Eiland offered the following amendment to **CSSB 431**:

Amend **CSSB 431** (house committee printing) as follows:

(1) In Section 6, Article 21.09, Insurance Code, as amended by SECTION 2 of the bill (page 4, line 2), between "type." and "[RULES]", insert the following new Subsection (g):

(g) This section expires December 31, 2005.

(2) After SECTION 2 of the bill (page 4, between lines 5 and 6), insert a new SECTION 3 of the bill to read as follows:

SECTION 1. Not later than January 1, 2005, the commissioner of insurance shall submit a report for consideration by the 79th Legislature, Regular Session, derived from data routinely collected by the Texas Department of Insurance, regarding:

(1) the increase in the number of insurance policies providing hazard and liability insurance coverage to residential renters since the effective date of this Act; and

(2) the number of justified consumer complaints made against persons holding specialty licenses under Section 6, Article 21.09, Insurance Code, as amended by this Act, as compared with those made during the same period against persons licensed as local recording agents.

(3) Renumber current SECTION 3 of the bill (page 4, line 6), as SECTION 4 of the bill.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative George offered the following amendment to **CSSB 431**:

Amend **CSSB 431** (house committee printing) in SECTION 2 of the bill, proposed Section 6(c), Article 21.09, as follows:

- (1) In Subdivision (1) after the semicolon (page 2, line 20), insert "or".
- (2) In Subdivision (2) strike "; or" (page 2, line 23) and substitute a period.
- (3) Strike proposed Subdivision (3) (page 2, line 24 through 26).

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Burnam offered the following amendment to **CSSB 431**:

Amend **CSSB 431** in Section 6, Article 21.09, Insurance Code, as amended by SECTION 2 of the bill (page 4, line 2, house committee printing), between "type." and "[**RULES**", by inserting the following new Subsection (g):

(g) The commission paid to the license holder under this section may not exceed 15 percent of the policy premium.

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Driver offered the following amendment to **CSSB 431**:

Amend **CSSB 431** (House committee printing) in Section 6, Article 21.09, Insurance Code, as amended by SECTION 2 of the bill, by striking Subsection (d) (page 2, line 27 through page 3, line 3) and substituting the following:

- (d) Insurance may not be issued under this section unless:
 - (1) the brochures and other written materials containing the disclosures required by Section 1(g) of this article are prominently displayed and readily available to the prospective residential renter; and
 - (2) a copy of a consumer bill of rights adopted in accordance with Article 1.35A of this code has been provided to the prospective residential renter.

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Driver offered the following amendment to **CSSB 431**:

Amend **CSSB 431** (house committee printing) in Section 6, Article 21.09, Insurance Code, as amended by SECTION 2 of the bill, by striking Subsection (c) (page 2, lines 13-26) and substituting the following:

(c) A residential landlord or property manager licensed under Section 1 of this article may act as an agent for any authorized insurer only in connection with the rental of residential rental property that the landlord or property manager leases and only with respect to insurance that provides hazard insurance coverage property during the term of the residential rental agreement.

Representative Eiland moved to table Amendment No. 7.

The motion to table was lost.

(Sadler now present)

Amendment No. 7 failed of adoption.

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).

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. 59).

LEAVE OF ABSENCE GRANTED

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

Oliveira on motion of R. Lewis.

CSSB 431 - (consideration continued)

Amendment No. 8

Representatives Driver, Carter, and Olivo offered the following amendment to **CSSB 431**:

Amend **CSSB 431** (house committee printing), in SECTION 2 of the bill, in proposed Subsection (b), Section 6, Article 21.09, Insurance Code, by inserting the following after the period at the end of that subsection (page 2, line 12):

A person who holds a specialty license under this section must also be licensed as a local recording agent under Article 21.14 of this code to sell a line of insurance described by Subsection (c) of this section and must comply with all continuing education requirements adopted under this article and Article 21.14 of this code. A person may not receive commissions as an insurance agent for the sale of a line of insurance described by Subsection (c) of this section unless the person holds a license as a local recording agent under Article 21.14 of this code.

Representative Eiland moved to table Amendment No. 8.

The motion to table prevailed.

Amendment No. 9

Representative Dukes offered the following amendment to **CSSB 431**:

Amend **CSSB 431** as follows:

1) At line 5, page 4 add the following:

(g) Each specialty license holder shall be required to report to the Commissioner of Insurance annually the amount of premium written, the number of policies sold and any other information deemed appropriate by the Commissioner of Insurance.

2) At line 6, page 4 insert Section 3 as follows:

Section 3.(a) No residential landlord or property manager or anyone within their employ can deny reasonable access to the residential rental property by a local recording agent for the purpose of selling the same or similar insurance.

(b) A residential landlord or property manager that violates or allows a violation of subsection (a) above is liable for a civil penalty. A civil penalty assessed under this section may not exceed:

(1) \$1,000 for the first or second act of violation; or

(2) \$2,500 for the third and subsequent act of violation.

(c) At the Commissioners request, the Attorney General shall file and prosecute a civil suit in a district court in Travis County to recover a civil penalty under this section.

3) Renumber subsequent sections appropriately.

Amendment No. 9 was adopted without objection.

A record vote was requested.

CSSB 431, as amended, failed to pass to third reading by (Record 493): 58 Yeas, 75 Nays, 4 Present, not voting.

Yeas — Averitt; Bosse; Brown, F.; Burnam; Chisum; Coleman; Cook; Corte; Counts; Crabb; Danburg; Davis, Y.; Deshotel; Dutton; Eiland; Farabee; Farrar; Gallego; Garcia; George; Giddings; Gray; Green; Grusendorf; Hinojosa; Hochberg; Hodge; Homer; Hupp; Isett; Janek; Jones, D.; Jones, J.; Kitchen; Martinez Fischer; Menendez; Moreno, J.; Naishtat; Noriega; Puente; Rangel; Raymond; Reyna, A.; Ritter; Sadler; Salinas; Smith; Smithee; Solis; Thompson; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Woolley; Yarbrough.

Nays — Alexander; Allen; Berman; Bonnen; Brimer; Brown, B.; Capelo; Carter; Chavez; Christian; Clark; Craddick; Crownover; Davis, J.; Delisi; Denny; Driver; Dukes; Dunnam; Ehrhardt; Elkins; Ellis; Flores; Geren; Goodman; Goolsby; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hope; Hopson; Howard; Hunter; Jones, E.; Junell; Keel; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Marchant; Maxey; McClendon; McReynolds; Merritt; Miller; Morrison; Mowery; Najera; Nixon; Olivo; Ramsay; Reyna, E.; Shields; Solomons; Swinford; Talton; Telford; Truitt; Turner, B.; Turner, S.; West; Wohlgemuth; Wolens.

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

Absent, Excused — Gutierrez; Hilbert; Oliveira; Pickett.

Absent, Excused, Committee Meeting — Pitts.

Absent — Bailey; Callegari; Glaze; Longoria; Moreno, P.; Seaman; Tillery; Zbranek.

STATEMENTS OF VOTE

I was shown voting no on Record No. 493. I intended to vote yes.

Alexander

I was shown voting yes on Record No. 493. I intended to vote no.

Wilson

SB 1747 ON SECOND READING (Dunnam - House Sponsor)

SB 1747, A bill to be entitled An Act relating to the offense of theft of livestock from a commission merchant.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Hinojosa, Representative Dunnam offered the following committee amendment to **SB 1747**:

Amend **SB 1747** on page 5, line 5, after the word "who" and before the word "obtains" by adding "is subject to Section 409 of the Packers and Stockyards Act (7 U.S.C. Section 181 et seq) that"

Amendment No. 1 was adopted without objection.

SB 1747, as amended, was passed to third reading.

SB 467 ON SECOND READING (Oliveira - House Sponsor)

SB 467, A bill to be entitled An Act relating to dual language immersion programs in certain public schools.

Representative Olivo moved to postpone consideration of **SB 467** until 10 a.m. Tuesday, May 22.

The motion prevailed without objection.

SB 638 ON SECOND READING (Kitchen, Keel, Allen, and Hinojosa - House Sponsors)

SB 638, A bill to be entitled An Act relating to the taking of a specimen from a person arrested for, charged with, or convicted of certain offenses for the purposes of DNA analysis; providing penalties.

Amendment No. 1

Representative Kitchen offered the following amendment to **SB 638**:

Amend **SB 638** (House Committee Printing) in SECTION 7 of the bill, in added Article 102.056(e), Code of Criminal Procedure, as follows:

(1) On page 8, line 14, strike "grants to local law enforcement agencies performing duties" and substitute "reimbursement in the form of grant to local law enforcement agencies for expenses incurred in performing duties".

(2) On page 8, line 16, immediately after the period, add the following:

On the first day after the end of a calendar quarter, a law enforcement agency incurring expenses described by this subsections in the previous calendar quarter shall send a certified statement of the costs incurred to the criminal justice division. The criminal justice division through a grant shall reimburse the law enforcement agency for the costs not later than the 30th day after the date the certified statement is received. If the criminal justice division does not reimburse the law enforcement agency before the 90th day after the date the certified statement is received, the agency is not required to perform duties imposed under Sections 411.1471 and 411.1472 until the agency has been compensated for all costs for which the local law enforcement agency has submitted a certified statement under this subsection.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Allen offered the following amendment to **SB 638**:

Amend **SB 638** as follows:

(1) Strike SECTION 11 and substitute the following:

SECTION 1. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2001.

(b) The section of this Act that amends Sections 411.148 and 411.150, Government Code, takes effect January 1, 2002.

(2) Add an appropriately numbered SECTION to read as follows and renumber existing SECTIONS accordingly:

SECTION __. (a) Section 411.148(a), Government Code, is amended to read as follows:

(a) An inmate serving a sentence for a felony in [øf] the institutional division [~~or other penal institution~~] shall provide one or more blood samples or other specimens [~~taken by or at the request of the institutional division~~] for the purpose of creating a DNA record, except for an inmate serving a sentence for an offense under Section 25.09, Penal Code, or Section 481.121, Health and Safety Code [~~if the inmate is ordered by a court to give the sample or specimen or is serving a sentence for:~~

[~~(1) an offense:~~

[~~(A) under Section 19.02, Penal Code (murder), or Section 22.02, Penal Code (aggravated assault);~~

[~~(B) under Section 30.02, Penal Code (burglary), if the offense is punishable under Subsection (c)(2) or (d) of that section; or~~

[~~(C) for which the inmate is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997; or~~

[~~(2) any offense if the inmate has previously been convicted of or adjudicated as having engaged in:~~

[~~(A) an offense described in Subsection (a)(1); or~~

~~[(B) an offense under federal law or laws of another state that involves the same conduct as an offense described by Subsection (a)(1)].~~

(b) Section 411.148, Government Code, is amended by adding Subsection (i) to read as follows:

(i) Notwithstanding Subsection (a), if at the beginning of a fiscal year the executive director of the Texas Department of Criminal Justice determines that sufficient funds have not been appropriated to the department to obtain a sample from each inmate otherwise required to provide a sample under Subsection (a), the executive director shall direct the institutional division to give priority to obtaining samples from inmates ordered by a court to give the sample or specimen or serving sentences for:

(1) an offense:

(A) under Section 19.02, Penal Code (murder), or Section 22.02, Penal Code (aggravated assault);

(B) under Section 30.02, Penal Code (burglary), if the offense is punishable under Subsection (c)(2) or (d) of that section; or

(C) for which the inmate is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(2) any offense if the inmate has previously been convicted of or adjudicated as having engaged in:

(A) an offense described in Subdivision (1); or

(B) an offense under federal law or laws of another state that involves the same conduct as an offense described by Subdivision (1).

(c) Section 411.150(a), Government Code, is amended to read as follows:

(a) A juvenile who is committed to the Texas Youth Commission shall provide one or more blood samples or other specimens ~~[taken by or at the request of the commission]~~ for the purpose of creating a DNA record if the juvenile ~~[is ordered by a juvenile court to give the sample or specimen or]~~ is committed to the commission for an adjudication as having engaged in delinquent conduct that violates a penal law of the grade of felony~~]:~~

~~[(1) an offense:~~

~~[(A) under Section 19.02, Penal Code (murder), or Section 22.02, Penal Code (aggravated assault);~~

~~[(B) under Section 30.02, Penal Code (burglary), if the offense is punishable under Subsection (c)(2) or (d) of that section; or~~

~~[(C) for which the juvenile is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997; or~~

~~[(2) a penal law if the juvenile has previously been convicted of or adjudicated as having engaged in:~~

~~[(A) a violation of a penal law described in Subsection (a)(1);~~

~~or~~

~~[(B) a violation of a penal law under federal law or the laws of another state that involves the same conduct as a violation of a penal law described by Subsection (a)(1)].~~

(d) Section 411.150, Government Code, is amended by adding Subsection (g) to read as follows:

(g) Notwithstanding Subsection (a), if at the beginning of a fiscal year

the executive director of the Texas Youth Commission determines that sufficient funds have not been appropriated to the commission to obtain a sample from each juvenile otherwise required to provide a sample under Subsection (a), the executive director shall direct the commission to give priority to obtaining samples from juveniles ordered by a court to give the sample or specimen or committed to the commission for an adjudication as having engaged in delinquent conduct that violates:

(1) an offense:

(A) under Section 19.02, Penal Code (murder), or Section 22.02, Penal Code (aggravated assault);

(B) under Section 30.02, Penal Code (burglary), if the offense is punishable under Subsection (c)(2) or (d) of that section; or

(C) for which the juvenile is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(2) a penal law if the juvenile has previously been convicted of or adjudicated as having engaged in:

(A) a violation of a penal law described in Subdivision (1);

or

(B) a violation of a penal law under federal law or laws of another state that involves the same conduct as an offense described by Subdivision (1).

(e) The change in law made by this section to Section 411.148(a), Government Code, applies only to an inmate who begins serving a sentence in the institutional division of the Texas Department of Criminal Justice on or after the effective date of this section.

(f) The change in law made by this section to Section 411.150(a), Government Code, applies only to a juvenile committed to the Texas Youth Commission on or after the effective date of this section.

Amendment No. 2 was adopted.

Amendment No. 3

On behalf of Representative Garcia, Representative Kitchen offered the following amendment to **SB 638**:

Amend **SB 638** by inserting the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter G, Chapter 411, Government Code, is amended by adding Section 411.155 to read as follows:

Sec. 411.155. CERTAIN RESTRICTIONS ON USE. A DNA sample or specimen may be obtained under this subchapter only for the purpose of identification.

Amendment No. 3 was adopted without objection.

SB 638, as amended, was passed to third reading. (Corte recorded voting no)

LEAVE OF ABSENCE GRANTED

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

Junell on motion of G. Lewis.

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).

**CSSB 687 ON SECOND READING
(Chisum - House Sponsor)**

CSSB 687, A bill to be entitled An Act relating to criminal penalties for the intentional or knowing discharge of waste or pollutants.

CSSB 687 was passed to third reading.

**CSSB 734 ON SECOND READING
(Woolley - House Sponsor)**

CSSB 734, A bill to be entitled An Act relating to a report by the Legislative Budget Board on the performance of the state's major investment funds.

CSSB 734 was passed to third reading. (Corte recorded voting no)

**SB 886 ON SECOND READING
(Gallego - House Sponsor)**

SB 886, A bill to be entitled An Act relating to motor vehicle size and weight limitations; providing penalties.

Amendment No. 1

Representative Gallego offered the following amendment to **SB 886**:

Amend **SB 886**, in SECTION 15 of the bill, amended Section 621.508, Transportation Code (Committee Printing, page 10, line 17-page 11, line 1), by striking Subdivisions (2)-(4) and substituting the following:

(2) was loaded with timber, pulp wood, wood chips, or cotton, livestock, or other agricultural products that are:

(A) in their natural state; and

(B) being transported from the place of production to the place of first marketing or first processing; and

(3) was not being operated on a portion of the national system of interstate and defense highways.

Amendment No. 1 was adopted without objection.

SB 886, as amended, was passed to third reading.

**SB 1078 ON SECOND READING
(Alexander - House Sponsor)**

SB 1078, A bill to be entitled An Act relating to the date of an independent audit of the management and business operations of the Texas Department of Transportation.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Hill, Representative Alexander offered the following committee amendment to **SB 1078**:

Amend **SB 1078** (Senate engrossment) on page 1, line 20, by striking "sixth [~~12th~~]" and substituting "12th".

Amendment No. 1 was adopted without objection.

SB 1078, as amended, was passed to third reading.

(Speaker in the chair)

SB 1174 ON SECOND READING
(B. Turner - House Sponsor)

SB 1174, A bill to be entitled An Act relating to the punishment for the offense of criminal mischief involving a public water supply.

SB 1174 was passed to third reading.

CSSB 1181 ON SECOND READING
(Eiland - House Sponsor)

CSSB 1181, A bill to be entitled An Act relating to requiring health insurers and related entities to disclose certain information.

CSSB 1181 was passed to third reading.

CSSB 1778 ON SECOND READING
(Hinojosa - House Sponsor)

CSSB 1778, A bill to be entitled An Act relating to the collection of costs in criminal cases.

Representative Hinojosa moved to postpone consideration of **CSSB 1778** until 9 a.m. Monday, May 21.

The motion prevailed without objection.

SB 416 ON SECOND READING
(Alexander - House Sponsor)

SB 416, A bill to be entitled An Act relating to the authority of the Texas Department of Transportation in connection with the mitigation of an adverse environmental impact resulting from a state highway improvement project.

Amendment No. 1

Representative Alexander offered the following amendment to **SB 416**:

Amend **SB 416** by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS accordingly:

"SECTION __. Section 203.004, Transportation Code, is amended to read as follows:

Sec. 203.004. CONTRACTS FOR MANAGEMENT [~~ADMINISTRATION~~] OF PROPERTY USED [~~ACQUIRED~~] FOR MITIGATION OF ADVERSE ENVIRONMENTAL IMPACTS. (a) The department may contract with any public or private entity [~~the Parks and Wildlife Department~~] for the management [~~administration, control, or maintenance~~] or property used [~~acquired under Subchapter D~~] for the mitigation of an adverse environmental

impact directly resulting from the construction or maintenance of a state highway.

(b) A contract under this section is not subject to Chapter 771, Government Code.

(c) In this section, "management," in connection with property, means administration, control, or maintenance that is required by an agency of the United States."

Amendment No. 1 was adopted without objection.

SB 416, as amended, was passed to third reading. (Danburg recorded voting no)

SB 51 ON SECOND READING

(Maxey, Coleman, Naishtat, West, Danburg, et al. - House Sponsors)

SB 51, A bill to be entitled An Act relating to the provision of Medicaid to certain persons making the transition from foster care to independent living.

Amendment No. 1

Representative Wohlgemuth offered the following amendment to **SB 51**:

Amend **SB 51** in SECTION 1 of the bill, proposed Section 32.0247, Human Resources Code, by striking Subsection (c).

Amendment No. 1 was adopted without objection.

SB 51, as amended, was passed to third reading. (Shields recorded voting no)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Bosse requested permission for the Committee on Civil Practices to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Civil Practices, 6:30 p.m. today, speakers committee room, for a formal meeting, to consider pending business.

SB 1815 ON SECOND READING

(Luna - House Sponsor)

SB 1815, A bill to be entitled An Act relating to establishing a loan program to assist communities that may be affected by federal military base closures.

SB 1815 was passed to third reading.

CSSB 929 ON SECOND READING

(Ritter - House Sponsor)

CSSB 929, A bill to be entitled An Act relating to a restriction on the financing of multifamily residential developments by housing authorities and housing finance corporations.

CSSB 929 was passed to third reading.

SB 280 ON SECOND READING
(Janek - House Sponsor)

SB 280, A bill to be entitled An Act relating to requiring the Texas Department of Health to prepare a request for information for storing and distributing vaccines.

Amendment No. 1

Representative Janek offered the following amendment to **SB 280**:

Amend **SB 280** as follows:

In SECTION 1 of the bill, amend Section (a) to read as follows:

(a) In this Act, "vaccines for children program":

(1) means the program operated by the Texas Department of Health under authority of 42 U.S.C. Section 1396s, as amended; and

(2) includes the program allowing each health care provider participating in the federal vaccines for children program, beginning with each such health care provider located in the largest major metropolitan area in the state with the lowest immunization rate of children, to select vaccines from the list of all vaccines that are recommended and approved by the federal advisory committee on immunization practices and under contract with the Centers for Disease Control of the United State Public Health Service and to use combination vaccines.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Janek offered the following amendment to **SB 280**:

Amend **SB 280** as follows:

(1) In SECTION 1 of the bill (House Committee Printing page 1, between lines 15-16), insert new Subsection (d) to read as follows:

"(d) Out of funds saved from more efficient and effective storage and distribution of vaccinations used in the vaccines for children program, the Texas Department of Health shall allow each health care provider participating in the federal vaccines for children program, beginning with each such health care provider located in a major metropolitan area with an immunization rate below the national average, to:

(1) select vaccines from the list of all vaccines that are recommended and approved by the federal advisory committee on immunization practices and under and contract with the Centers for Disease Control of the United States Public Health Service; and

(2) use combination vaccines."

(2) In SECTION 1 of the bill (House Committee Printing page 1, line 16), reletter Subsection (d) as Subsection (e) and strike "This Act" and substitute Subsections (b) and (c) of this Act".

Amendment No. 2 was adopted without objection.

SB 280, as amended, was passed to third reading.

RESOLUTIONS CALENDAR

The chair laid before the house the following resolution on committee report:

SCR 28 (Cook - House Sponsor), memorializing Congress to repeal the regulation relating to the three-shell limit and the magazine plug requirement contained in Title 50 C.F.R. 20.21.

SCR 28 was adopted.

HR 1030 - ADOPTED

(by Keel)

Representative Keel moved to suspend all necessary rules to take up and consider at this time **HR 1030**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1030, Honoring Eagle Scout Matthew Chen Fletcher of Austin.

HR 1030 was adopted without objection.

HR 1031 - ADOPTED

(by Keel)

Representative Keel moved to suspend all necessary rules to take up and consider at this time **HR 1031**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1031, Honoring Samuel Henry Livingston of Austin for attaining the rank of Eagle Scout.

HR 1031 was adopted without objection.

HR 1149 - ADOPTED

(by Deshotel)

Representative Deshotel moved to suspend all necessary rules to take up and consider at this time **HR 1149**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1149, Honoring Deonne Cunningham for her contributions as a participant in the Texas Legislative Internship Program and congratulating her on the occasion of her birthday.

HR 1149 was adopted without objection.

**BILLS ON FIRST READING
AND REFERRAL TO COMMITTEES**

Bills were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to

Committees, List No. 2.)

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Insurance, upon adjournment today, Desk 24, for a formal meeting.

Higher Education, upon adjournment today, Desk 118, for a formal meeting, to consider **HR 1005** and **SB 1827**.

Natural Resources, upon adjournment today, Desk 9, for a formal meeting, to consider **SB 1821**.

Public Education, upon adjournment today, Desk 53, for a formal meeting, to consider **SB 949**.

Corrections, upon adjournment today, Desk 2, for a formal meeting, to consider **SB 107**.

Public Health, 10 minutes after adjournment today, Desk 6, for a formal meeting, to consider **SB 1152** and **SB 1237**.

Calendars, upon adjournment today, speakers committee room, for a formal meeting.

Judicial Affairs, upon adjournment today, Desk 67, for a formal meeting, to consider **SB 1434**.

STATEMENT OF VOTE

I was shown voting yes on Record No. 482. I intended to vote no.

Janek

ADJOURNMENT

Representative Uresti moved that the house adjourn until 10 a.m. Monday, May 21 in memory of Felipe Uresti, uncle of Representative Uresti.

The motion prevailed without objection.

The house accordingly, at 6:37 p.m., adjourned until 10 a.m. Monday, May 21.

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

HR 1121 (By Junell), In memory of Dr. R. Othal Feather.
To Rules & Resolutions.

HR 1122 (By Sadler), Honoring the 2000 Henderson Baseball All-Stars for winning the Dixie Boys World Series in Cleveland, Mississippi.

To Rules & Resolutions.

HR 1123 (By J. Jones), Honoring Vernor Kennedy of Dallas on his retirement.

To Rules & Resolutions.

HR 1124 (By Giddings), Welcoming Bishop Ernestine C. Reems to Texas and commending her for her exemplary service to her fellowman.

To Rules & Resolutions.

HR 1126 (By Denny), Congratulating the Ponder High School boys basketball team on winning the 2001 UIL Class 2A state championship.

To Rules & Resolutions.

HR 1127 (By Alexander), Congratulating the Texas Department of Transportation and the Texas Transportation Institute on the occasion of the 75th annual Transportation Short Course.

To Rules & Resolutions.

HR 1128 (By Hill, Goolsby, and Madden), In memory of Kate Sullivan of Richardson.

To Rules & Resolutions.

HR 1129 (By Hardcastle), Congratulating the Vernon High School tennis team on winning the 2001 Texas Tennis Coaches Association Class 3A state championship.

To Rules & Resolutions.

HR 1132 (By Hilderbran), Honoring the 30th anniversary of the Kerrville Folk Festival.

To Rules & Resolutions.

HR 1133 (By Danburg), Recognizing May 13, 2001, as World Falun Dafa Day and commending the significant efforts of Li Hongzhi and all the followers of this ancient practice.

To Rules & Resolutions.

HR 1134 (By Hunter, Counts, Keffer, Junell, and B. Turner), Honoring Judge Billy John Edwards of Abilene on his retirement from the 104th State District Court.

To Rules & Resolutions.

HR 1137 (By Pitts), In memory of David Low of Ennis.

To Rules & Resolutions.

SB 949 to Public Education.

SB 1237 to Public Health.

List No. 2

SB 1827 to Higher Education

SIGNED BY THE SPEAKER

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

House List No. 58

HB 42, HB 65, HB 73, HB 84, HB 122, HB 166, HB 200, HB 335, HB 371, HB 457, HB 501, HB 510, HB 534, HB 602, HB 741, HB 819, HB 858, HB 946, HB 947, HB 952, HB 998, HB 1718, HCR 105

House List No. 59

HB 102, HB 445, HB 459, HB 490, HB 495, HB 535, HB 969, HB 1011, HB 1015, HB 1037, HB 1038, HB 1073, HB 1088, HB 1091, HB 1099, HB 1110, HB 1113, HB 1187, HB 1196, HB 1220, HB 1254, HB 1307, HB 1420, HB 1469, HB 1515, HB 1535, HB 1591, HB 1651, HB 1658, HB 1680, HB 2091, HB 2092, HB 2103, HB 2112, HB 2143, HB 2185, HB 2301, HB 2494, HB 2628, HB 2828, HB 2853, HB 2959, HB 3309, HB 3421, HB 3524, HB 3626, HB 3662, HB 3666, HB 3674, HCR 38

Senate List No. 30

SB 12, SB 140, SB 148, SB 170, SB 236, SB 274, SB 275, SB 285, SB 368, SB 429, SB 433, SB 453, SB 477, SB 535, SB 542, SB 572, SB 584, SB 587, SB 591, SB 596, SB 647, SB 649, SB 651, SB 673, SB 702, SB 707, SB 714, SB 757, SB 772, SB 790, SB 850, SB 873, SB 877, SB 904, SB 940, SB 962, SB 990, SB 1002, SB 1015, SB 1043, SB 1057, SB 1061, SB 1146, SB 1207, SB 1213, SB 1262, SB 1300, SB 1304, SB 1376, SB 1394, SB 1491, SB 1539, SB 1561, SB 1563, SB 1588, SB 1667, SB 1671, SB 1707, SB 1710, SB 1735, SB 1772, SB 1799, SB 1806, SB 1810, SB 1811, SB 1814, SCR 22, SCR 23, SCR 50, SCR 64

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Friday, May 18, 2001

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 223** Wise SPONSOR: Bernsen
Relating to procedural requirements applicable to the release on parole of certain sex offenders.
(AMENDED)
- HB 393** Maxey SPONSOR: Ellis, Rodney
Relating to certain nonprofit entities that provide health or long-term care or health benefit plans; providing a penalty.
(AMENDED)
- HB 460** Hartnett SPONSOR: West, Royce
Relating to the penalty for the offense of prostitution.
(AMENDED)
- HB 658** Junell SPONSOR: Ellis, Rodney
Relating to the revenues of public institutions of higher education and to the issuance of revenue bonds to fund capital projects at those institutions.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 900** Thompson SPONSOR: Wentworth
Relating to the administration of statutory probate courts and to the assignment of statutory probate court judges.
(AMENDED)
- HB 1050** Solomons SPONSOR: Brown, J. E. "Buster"
Relating to liens on real property in favor of governmental entities.
(AMENDED)
- HB 1107** Hartnett SPONSOR: Cain
Relating to the use of money in the county law library fund.
(AMENDED)
- HB 1138** Longoria SPONSOR: Truan
Relating to the form of a proposal guaranty for a contract of the Texas Department of Transportation.
(AMENDED)
- HB 1418** Jones, Jesse SPONSOR: Carona
Relating to certain employees of nursing homes and related institutions.
(AMENDED)
- HB 1562** Thompson SPONSOR: Moncrief
Relating to the control of health insurance fraud; providing administrative penalties.
(AMENDED)
- HB 1572** Haggerty SPONSOR: Staples
Relating to the rights of victims of crime, participation by victims and witnesses in certain criminal proceedings, and the payment of restitution to victims.
(AMENDED)

- HB 1697** Ellis, Dan SPONSOR: Ogden
Relating to the erection and maintenance of outdoor advertising by certain nonprofit organizations or schools.
(AMENDED)
- HB 1712** Maxey SPONSOR: West, Royce
Relating to online public access to certain information regarding attorneys.
(AMENDED)
- HB 1739** Martinez Fischer SPONSOR: Van de Putte
Relating to the penalty for a violation of certain laws involving the restraint of a child in a motor vehicle.
(AMENDED)
- HB 1757** Gutierrez SPONSOR: Lucio
Relating to payment of unemployment compensation tax contributions by certain employers engaged in agriculture.
(AMENDED)
- HB 1856** Danburg SPONSOR: Shapiro
Relating to the use of certain voting systems.
(AMENDED)
- HB 1869** Wohlgemuth SPONSOR: Harris
Relating to the acquisition of manufactured homes through financing or other means and to persons associated with those acquisitions.
(AMENDED)
- HB 2191** Averitt SPONSOR: Fraser
Relating to availability of health benefit plan coverage under the Texas Health Insurance Risk Pool.
(AMENDED)
- HB 2260** Danburg SPONSOR: Zaffirini
Relating to accommodations and work assignments for certain pregnant municipal and county employees.
- HB 2351** Hinojosa SPONSOR: Van de Putte
Relating to requiring the corroboration of certain testimony in a criminal case involving controlled substances.
(AMENDED)
- HB 2691** Madden SPONSOR: Ellis, Rodney
Relating to procedures for the electronic transfer of voter registration applications by certain voter registration agencies.
(AMENDED)
- HB 2700** Chavez SPONSOR: Duncan
Relating to certain services provided through telemedicine.
(AMENDED)
- HB 2877** Goolsby SPONSOR: Cain
Relating to the operations, powers, and duties of the State Preservation Board.
(AMENDED)

HB 3055 Dukes SPONSOR: Barrientos
Relating to authorizing a county to pay the costs of an owner-controlled insurance program with the proceeds of certain securities issued by the county.

HB 3313 Dunnam SPONSOR: Bernsen
Relating to elementary class size limits in public schools.
(AMENDED)

SCR 66 Staples
Honoring the lives of the fallen peace officers of Nacogdoches County and recognizing the Law Enforcement Memorial.

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 415 (viva-voce vote)

SB 577 (viva-voce vote)

Respectfully,

Betty King
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 18, 2001 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SCR 61 Moncrief
Supporting the selection of Lockheed Martin Aeronautics in Fort Worth as the site for the Joint Strike Fighter construction program.

Respectfully,

Betty King
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 18, 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 310** Flores SPONSOR: Truan
Relating to the establishment and operation of veterans cemeteries.
(AMENDED)
- HB 396** Wise SPONSOR: Gallegos
Relating to the requirement that an applicant for a driver's license provide certain identification information to the Department of Public Safety.
(AMENDED)
- HB 706** Morrison SPONSOR: Truan
Relating to the emergency possession of and termination of the parent-child relationship of certain abandoned children.
(AMENDED)
- HB 792** Wolens SPONSOR: West, Royce
Relating to certain procedures regarding state bar disciplinary proceedings.
(AMENDED)
- HB 1018** Hardcastle SPONSOR: Haywood
Relating to certain applications submitted to and reexaminations given by the Texas State Board of Medical Examiners.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 1359** Villarreal, Mike SPONSOR: Shapleigh
Relating to the transfer of course credit between public institutions of higher education.
(AMENDED)
- HB 2164** Goolsby SPONSOR: Cain
Relating to the sale of Woodlawn by the State Preservation Board.
(AMENDED)
- HB 2262** Danburg SPONSOR: Madla
Relating to the requirements for membership on the Texas Optometry Board.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 2439** Goolsby SPONSOR: Cain
Relating to uses of balances in the inaugural fund.
(AMENDED)
- HB 2518** Kuempel SPONSOR: Haywood
Relating to the issuance of certain permits for the emission of air contaminants.
- HB 2804** Kolkhorst SPONSOR: Ogden
Relating to certain instruments recorded to create liens on property or to show satisfaction of a judgment.
(AMENDED)

HB 2845 Danburg SPONSOR: Cain
 Relating to the creation of an initiative to promote the commercialization of fuel cell technologies, including tax exemptions and reductions for certain corporations.
 (AMENDED)

HB 2879 Sadler SPONSOR: Bivins
 Relating to public school finance.
 (COMMITTEE SUBSTITUTE)

HB 3016 Haggerty SPONSOR: Shapiro
 Relating to the use of certain electronically readable information to comply with certain provisions of the Alcoholic Beverage Code.
 (AMENDED)

HB 3667 Cook SPONSOR: Armbrister
 Relating to insurance for, and a fireworks sales tax for the support of, certain volunteer fire departments.

HB 3692 Coleman SPONSOR: Ellis, Rodney
 Relating to the creation of the Greater Southeast Management District; providing authority to impose a tax and issue bonds.
 (AMENDED)

HCR 284 Goodman SPONSOR: Harris
 Instructing the enrolling clerk of the house to make technical corrections in H.B. 1245.
 (AMENDED)

HJR 2 Chisum SPONSOR: Madla
 Proposing a constitutional amendment authorizing a commissioners court of a county to declare the office of constable in certain precincts dormant and providing a procedure for reinstatement of the office.

HJR 82 Counts SPONSOR: Truan
 Proposing a constitutional amendment authorizing the Veterans' Land Board to issue additional general obligation bonds and to use certain assets in certain funds to provide for veterans cemeteries.
 (COMMITTEE SUBSTITUTE)

SB 1827 Armbrister
 Relating to certain fees for students attending institutions in the Texas State University System.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 198 (viva-voce vote)

SB 261 (viva-voce vote)

SB 414 (viva-voce vote)

SB 575 (30 Yeas, 0 Nays, 1 Present Not Voting)

SB 637 (30 Yeas, 0 Nays, 1 Present Not Voting)

SB 789 (30 Yeas, 0 Nays, 1 Present Not Voting)

SB 1037 (30 Yeas, 0 Nays, 1 Present Not Voting)

SB 1318 (viva-voce vote)

SB 1358 (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 305

Senate Conferees: Harris - Chair/Armbrister/Brown, J. E. "Buster"/Haywood/Zaffirini

SB 310

Senate Conferees: Harris - Chair/Brown, J. E. "Buster"/Duncan/Lucio/Sibley

SB 507

Senate Conferees: Carona - Chair/Armbrister/Ellis, Rodney/Madla/Shapiro

SB 1444

Senate Conferees: Brown, J. E. "Buster" - C/Armbrister/Barrientos/Haywood/Lucio

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 2912

Senate Conferees: Harris - Chair/Armbrister/Bernsen/Brown, J. E. "Buster"/Sibley

Respectfully,

Betty King
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Friday, May 18, 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:

HB 776

Haggerty

SPONSOR: Staples

Relating to the implementation, operation, and maintenance of the criminal justice information system.

(AMENDED)

HB 2098 Morrison SPONSOR: Armbrister
Relating to the punishment for the offense of unlawful restraint.
(AMENDED)

Respectfully,

Betty King
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 18, 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 560 Keffer SPONSOR: Haywood
Relating to the liability of certain religious charitable organizations for transportation services provided to certain welfare recipients.

HB 3678 Gray SPONSOR: Jackson
Relating to the creation of an additional statutory county court in Galveston County and to the administration, operation, and jurisdiction of the statutory courts in that county.

HCR 104 Jones, Jesse SPONSOR: Barrientos
Memorializing congress to pass legislation relating to giving a tax credit for jury service.

HCR 285 Hartnett SPONSOR: Carona
Honoring Robert S. "Bob" Driegert for his impressive record of service as chairman of the Dallas County Republican Party.

Respectfully,

Betty King
Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 18, 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 2600 Brimer SPONSOR: Duncan
Relating to the provision of workers' compensation benefits and to the operation of the workers' compensation insurance system; providing penalties. (AMENDED)

Respectfully,

Betty King
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 17

County Affairs - **SB 1780, SB 1823, SB 1824**

Criminal Jurisprudence - **SB 1531**

Environmental Regulation - **SB 5, SB 1541**

Financial Institutions - **SB 1581**

Insurance - **SB 806**

Judicial Affairs - **SB 720**

Land & Resource Management - **SB 438, SB 1398**

Public Education - **SB 207, SB 385, SB 512, SB 580**

Public Health - **SB 101, SB 283, SB 284, SB 332, SB 556, SB 595, SB 1024, SB 1029, SB 1041, SB 1156, SCR 21**

Public Safety - **SB 455**

State Affairs - **SB 311, SB 485, SB 488, SB 520, SB 1066**

State, Federal & International Relations - **SCR 54, SCR 63**

Urban Affairs - **SJR 32**

Ways & Means - **SB 337, SB 344, SB 1007, SB 1315, SB 1535**

ENROLLED

May 17 - HB 63, HB 269, HB 1475, HB 1506, HB 1514, HB 1686, HB 1837, HB 2139, HB 2430, HB 2663, HB 2852, HCR 98, HCR 291

SENT TO THE GOVERNOR

May 17 - HB 63, HB 80, HB 106, HB 139, HB 269, HB 548, HB 1279, HB 1299, HB 1378, HB 1419, HB 1459, HB 1475, HB 1512, HB 1514, HB 1686, HB 2139, HB 2307, HB 2314, HB 2381, HB 2430, HB 2440, HB 2463, HB 2491, HB 2543, HB 2663, HB 2796, HB 2807, HB 2864, HB 2874, HB 2875, HB 2922, HB 2923, HB 3064, HCR 74, HCR 77, HCR 84, HCR 88, HCR 98, HCR 181, HCR 192, HCR 197, HCR 210

SENT TO THE COMPTROLLER

May 17 - HB 2852

SENT TO THE SECRETARY OF THE STATE

May 17 - HJR 75