

HOUSE JOURNAL

SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-EIGHTH DAY — MONDAY, MAY 21, 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 494).

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; Pickett; 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.

The invocation was offered by Reverend Paul Golden, senior pastor, Light Christian Center, Alvin.

LEAVE OF ABSENCE GRANTED

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

Hilbert on motion of Haggerty.

CAPITOL PHYSICIAN

The speaker recognized Representative Talton who presented Dr. Joe Mock of La Porte as the "Doctor for the Day."

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

HR 1153 - ADOPTED (by Kitchen)

Representative Kitchen moved to suspend all necessary rules to take up and consider at this time **HR 1153**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1153, Congratulating Allen Robertson and Meredith McCall on the successful world premiere of Jouet.

HR 1153 was read and was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representatives Kitchen and Hunter, who introduced Allen Robertson and Meredith McCall.

(Edwards in the chair)

HR 1150 - ADOPTED (by Counts)

Representative Counts moved to suspend all necessary rules to take up and consider at this time **HR 1150**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1150, Honoring Madeline Boadle of Big Spring for being named Texas Mother of the Year 2001.

HR 1150 was adopted without objection.

HR 1151 - ADOPTED (by Counts)

Representative Counts moved to suspend all necessary rules to take up and consider at this time **HR 1151**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1151, Honoring Highland High School's Jarod Bowen for winning first place in the 2001 UIL Class 1A pole vault competition at the state track and field meet.

HR 1151 was adopted without objection.

HR 1088 - ADOPTED (by Krusee)

Representative Krusee moved to suspend all necessary rules to take up and consider at this time **HR 1088**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1088, Honoring the CAYSA Rattler Rumble '89 girls soccer team on becoming state champions of the 2001 South Texas Cup.

HR 1088 was read and was adopted without objection.

(Speaker in the chair)

INTRODUCTION OF GUESTS

The speaker recognized Representative Miller, who introduced members of the Stephenville High School powerlifting team, winners of the Division I state powerlifting championship.

HR 884, congratulating Stephenville High School for winning the Division I state powerlifting championship, 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 illness:

Oliveira on motion of Solis.

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 Nos. 60 and 61 and Senate List No. 31).

INTRODUCTION OF GUESTS

The speaker recognized Representative Wilson, who introduced Natalie Maines and Adrian Pasdar, their son Jackson Slade Pasdar, and their friends and family.

HR 739, congratulating Natalie Maines and Adrian Pasdar on the birth of their son, Jackson Slade Pasdar, having been previously adopted, was read.

HR 1037 - ADOPTED (by Goolsby)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 1037**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1037, Honoring the 50th anniversary of the Thompson, Coe, Cousins & Irons, L.L.P. law firm.

HR 1037 was adopted without objection.

HR 1161 - ADOPTED (by Thompson)

Representative Thompson moved to suspend all necessary rules to take up and consider at this time **HR 1161**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1161, Commending Representative Harold V. Dutton for his great contributions to the State of Texas and offering joyous felicitations on the occasion of his birthday.

HR 1161 was adopted without objection.

HR 647 - ADOPTED
(by Villarreal)

Representative Puente moved to suspend all necessary rules to take up and consider at this time **HR 647**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 647, In memory of Patricia Lee Clayworth of San Antonio.

HR 647 was read and was unanimously adopted by a rising vote.

On motion of Representative A. Reyna and the Bexar County delegation, the names of all the members of the house were added to **HR 647** as signers thereof.

RESOLUTIONS 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.)

**PROVIDING FOR A LOCAL, CONSENT,
AND RESOLUTIONS CALENDAR**

Representative Y. Davis moved to set a local, consent, and resolutions calendar for 10 a.m. Wednesday, May 23.

The motion prevailed without objection.

**SB 305 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Bosse, the house granted the request of the senate for the appointment of a conference committee on **SB 305**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 305**: Bosse, chair, Kuempel, Alexander, McCall, and Y. Davis.

**SB 310 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Chisum, the house granted the request of the senate for the appointment of a conference committee on **SB 310**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 310**: Chisum, chair, R. Lewis, Bosse, Merritt, and Kitchen.

**SB 1444 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Walker, the house granted the request of the senate for the appointment of a conference committee on **SB 1444**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1444**: Walker, chair, Cook, Counts, R. Lewis, and T. King.

**SB 22 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Madden, the house granted the request of the senate for the appointment of a conference committee on **SB 22**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 22**: Smith, chair, Gray, Maxey, Madden, and Uresti.

**SB 507 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Dutton, the house granted the request of the senate for the appointment of a conference committee on **SB 507**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 507**: Dutton, chair, Brimer, Bosse, Hamric, and Bailey.

**SB 1119 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Talton, the house granted the request of the senate for the appointment of a conference committee on **SB 1119**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1119**: Hinojosa, chair, Talton, Keel, Dunnam, and Puente.

**HB 6 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 6, A bill to be entitled An Act relating to open-enrollment charter schools.

Representative Dunnam 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 6**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 6**: Dunnam, chair, Sadler, Hardcastle, Smith, and Olivo.

**HB 236 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 236, A bill to be entitled An Act relating to the applicability of the death penalty to a capital offense committed by a person with mental retardation.

Representative Keel 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 236**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 236**: Hinojosa, chair, Keel, Dunnam, Martinez Fischer, and Kitchen.

**HB 658 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 658, A bill to be entitled An Act relating to authorizing the issuance of revenue bonds to fund capital projects at public institutions of higher education.

Representative Junell moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 658**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 658**: Junell, chair, West, Coleman, Gallego, and Heflin.

**HB 1368 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1368, A bill to be entitled An Act relating to application for registration of vehicles used by nonprofit disaster relief organizations.

On motion of Representative Callegari, the house concurred in the senate amendments to **HB 1368**.

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

Amend **HB 1368** (House Engrossment) as follows:

(1) Strike SECTION 2 of the bill (page 1, lines 19-24) and substitute the following appropriately numbered SECTION:

SECTION _____. (a) The change in law made by this Act to Section 502.203, Transportation Code, applies only to an application for vehicle registration under that section submitted on or after the effective date of this Act. An application for registration under that section submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

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

(2) Add the following appropriately numbered SECTION and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 502, Transportation Code, is amended by adding Section 502.0022 to read as follows:

Sec. 502.0022. CONSOLIDATED REGISTRATION OF FLEET VEHICLES. (a) The department shall develop and implement a system of registration so that an owner of a fleet of motor vehicles may consolidate the registration of the motor vehicles in the fleet as an alternative to the separate registration of each motor vehicle in the fleet.

(b) A system of consolidated registration under this section must allow the owner of a fleet of motor vehicles to register:

(1) an entire fleet of motor vehicles in the county of the owner's residence or principal place of business; or

(2) those vehicles in a fleet of vehicles that are operated most regularly in the same county by registering the vehicles in that county.

(c) The department by rule shall define "fleet" for purposes of this section.

(d) The department may adopt rules to administer this section.

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

Amend **HB 1368** by adding the following appropriately numbered SECTION of the bill and renumbering SECTIONS appropriately:

SECTION _____. Section 502.158(c), Transportation Code, is amended to read as follows:

(c) The department may designate a registration period of less than 12 months. The registration fee for a registration period of less than 12 months is computed at a rate of one-twelfth the annual registration fee multiplied by the number of months in the registration period. The department may not designate a registration period of more than 12 months, but:

(1) with the consent of the department, an owner may pay registration fees for a designated period of more than 12 months; and

(2) an owner of a vehicle [~~passenger car or light truck that has not been previously registered in this or another state and is of the current or preceding model year~~] may pay registration fees for a designated period of 12, 24, or 36 months.

HB 1869 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 1869, A bill to be entitled An Act relating to the acquisition of manufactured homes through financing or other means and to persons associated with those acquisitions.

Representative Wohlgenuth 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 1869**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1869**: Wohlgemuth, chair, Averitt, Ramsay, Bosse, and Walker.

**HB 1922 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1922, A bill to be entitled An Act relating to state government privacy policy.

Representative McCall moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1922**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1922**: McCall, chair, Bosse, Gallego, Gray, and Wolens.

**HB 2098 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2098, A bill to be entitled An Act relating to the punishment for the offense of unlawful restraint.

On motion of Representative Morrison, the house concurred in the senate amendments to **HB 2098**.

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

Amend **HB 2098** by adding ";(C) the actor while in custody restrained an official or employee of a correctional facility or any other person" after subsection B, in Section 1 of the bill.

Senate Amendment No. 2 (Senate Floor Amendment No. 1 - 3rd reading)

Amend **HB 2098** (Committee Printing) by amending FLOOR AMENDMENT 1 by STAPLES by striking after "restrained": "an official or employee of a correctional facility or".

**HB 2446 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2446, A bill to be entitled An Act relating to emergency medical services.

Representative Glaze 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 2446**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2446**: Glaze, chair, Dunnam, Coleman, Capelo, and Uresti.

**HB 2572 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2572, A bill to be entitled An Act relating to the creation, administration, powers, duties, operations, and financing of the Pineywoods Groundwater Conservation District.

Representative McReynolds 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 2572**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2572**: McReynolds, chair, Christian, Walker, R. Lewis, and Cook.

**HB 3067 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3067, A bill to be entitled An Act relating to the continuation and functions of the Texas Funeral Service Commission.

On motion of Representative Chisum, the house concurred in the senate amendments to **HB 3067**.

Senate Committee Substitute

CSHB 3067, A bill to be entitled An Act relating to the continuation and functions of the Texas Funeral Service Commission.

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

ARTICLE 1. TEXAS FUNERAL SERVICE COMMISSION AMENDMENTS

SECTION 1.01. Section 101.002, Occupations Code, is amended to read as follows:

Sec. 101.002. COMPOSITION OF COUNCIL. The council consists of 15 [~~14~~] members, with one member appointed by each of the following:

- (1) the Texas Board of Chiropractic Examiners;
- (2) the State Board of Dental Examiners;

- (3) the Texas Optometry Board;
- (4) the Texas State Board of Pharmacy;
- (5) the Texas State Board of Podiatric Medical Examiners;
- (6) the State Board of Veterinary Medical Examiners;
- (7) the Texas State Board of Medical Examiners;
- (8) the Board of Nurse Examiners;
- (9) the Texas State Board of Examiners of Psychologists;
- (10) the Board of Vocational Nurse Examiners;
- (11) the Texas Funeral Service Commission;
- (12) the entity that regulates the practice of physical therapy;
- (13) [(+2)] the entity that regulates the practice of occupational

therapy;

(14) [(+3)] the health licensing division of the Texas Department of Health; and

(15) [(+4)] the governor's office.

SECTION 1.02. Subchapter B, Chapter 101, Occupations Code, is amended by adding Section 101.0515 to read as follows:

Sec. 101.0515. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to the Texas Funeral Service Commission.

SECTION 1.03. Section 651.001, Occupations Code, is amended to read as follows:

Sec. 651.001. DEFINITIONS. In this chapter:

(1) "Cemetery" means a place that is used or intended to be used for interment, and includes a graveyard, burial park, or mausoleum.

(2) "Commission" means the Texas Funeral Service Commission.

(3) "Crematory" means a structure containing a furnace used or intended to be used for the cremation of human remains.

(4) [(2)] "Embalmer" means a person licensed under this chapter who for compensation, wholly or partly, disinfects or preserves a dead human body by:

(A) using chemical substances, fluids, or gases, including by introducing those substances, fluids, or gases into the body by:

(i) vascular or hypodermic injection; or

(ii) direct application into the organs or cavities; or

(B) another method intended to disinfect or preserve a dead human body or to restore body tissues and structures.

(5) [(3)] "First call" means the beginning of the relationship and duty of a funeral director to take charge of a dead human body and have the body prepared for burial or disposition by embalming, cremation, or another method. The term does not include an ambulance call if the person dispatching the ambulance does not know whether a dead human body is to be picked up.

(6) [(4)] "Funeral director" means a person licensed under this chapter who engages in for compensation, or represents to the public as being engaged in for compensation, the preparation, other than by embalming, of a dead human body for burial or other disposition.

(7) [(5)] "Funeral directing" means acts associated with or arranging for the disposition of a dead human body, performed by a person for compensation, from the time of first call until:

(A) inurnment, interment, or entombment services are complete; or

(B) the body is permanently transported out of this state [released:

[~~(i)~~ for transport to a crematorium; or
[~~(ii)~~ to a public carrier].

(8) [~~(6)~~] "Funeral establishment" means:

(A) a place of business used in the care and preparation for burial or transportation of a dead human body; or

(B) any other place in which a person engages in, or represents the person to be engaged in, the business of embalming or funeral directing.

(9) [~~(7)~~] "Funeral merchandise" means merchandise sold primarily for use in:

(A) a funeral ceremony;

(B) embalming; or

(C) the care and preparation of a dead human body for burial, cremation, or other disposition.

(10) [~~(8)~~] "Funeral service" means a service performed incident to a funeral ceremony or for the care and preparation of a dead human body for burial, cremation, or other disposition. The term includes embalming.

(11) [~~(9)~~] "Mortuary science" means the scientific, professional, and practical aspects, with consideration given to accepted practices, of the care, preparation for burial, or transportation of a dead human body. The term includes the preservation and sanitation of a dead human body and restorative art.

(12) [~~(10)~~] "Outer enclosure" means an enclosure or container placed in a grave above or around the casket. The term includes a burial vault, grave box, or grave liner.

(13) [~~(11)~~] "Prospective customer" means a consumer who enters a funeral establishment and inquires about a funeral service, cremation, or merchandise.

(14) [~~(12)~~] "Provisional license holder" means a person who:

(A) is engaged in learning the practice of funeral directing or embalming under the instruction, direction, and personal supervision of a funeral director or embalmer; and

(B) holds a provisional license issued by the commission under this chapter.

(15) [~~(13)~~] "Purchase agreement" means a written statement that itemizes the cost of funeral services or merchandise selected by a customer from the retail price list.

(16) [~~(14)~~] "Solicitation" means a direct or indirect contact by a funeral director, embalmer, or employee, agent, or representative of a licensed funeral establishment or any other entity with a person near death or the family of, next of kin of, or person responsible for making funeral arrangements for a person who is deceased or near death, if the contact is not initiated by the person near death or the family, next of kin, or person responsible for making funeral arrangements and the contact is to secure the right to provide funeral

services or merchandise or occurs in a situation that might influence the contacted person to choose a particular funeral establishment. The term does not include:

(A) except in the case of contact with a person near death or the person responsible for making funeral arrangements for a person near death, an attempt to secure funeral business under a permit issued under Chapter 154, Finance Code; or

(B) any method of advertising by publication or broadcasting.

(17) [(+15)] "Unit pricing" means a method of pricing that offers a discount to a purchaser who buys various funeral services and merchandise as a package.

SECTION 1.04. Section 651.002, Occupations Code, is amended to read as follows:

Sec. 651.002. APPLICATION OF SUNSET ACT. The Texas Funeral Service Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2003 [2004].

SECTION 1.05. Subsection (a), Section 651.051, Occupations Code, is amended to read as follows:

(a) The Texas Funeral Service Commission consists of seven [~~six~~] members appointed by the governor, with the advice and consent of the senate as follows:

(1) two members who are licensed as both an embalmer and a funeral director [~~in this state~~] for at least the five years preceding appointment to the commission; [~~and~~]

(2) one member who is a registered cemetery owner or operator; and

(3) four members who represent the public and who:

(A) are not regulated under this chapter; and

(B) have consistently shown an interest in supporting consumer protection.

SECTION 1.06. Subchapter B, Chapter 651, Occupations Code, is amended by adding Sections 651.0511 and 651.0512 to read as follows:

Sec. 651.0511. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

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

(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 commission or the Texas Ethics Commission.

(c) A person appointed to the commission 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. 651.0512. TRAINING FOR EMPLOYEES ON STATE INCENTIVE PROGRAM. The executive director or the executive director's designee shall provide to commission employees information and training on the benefits and methods of participation in the state employee incentive program under Subchapter B, Chapter 2108, Government Code.

SECTION 1.07. Section 651.052, Occupations Code, is amended to read as follows:

Sec. 651.052. ELIGIBILITY OF PUBLIC MEMBERS. (a) A person may not be ~~[is not eligible for appointment as]~~ a public member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by a ~~[an occupational]~~ regulatory agency in the funeral service industry ~~[field of funeral services];~~

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the commission ~~[or receiving funds from the commission];~~

(3) owns or controls, directly or indirectly, more than a 10 percent ~~[any]~~ interest in a business entity or other organization regulated by or receiving money from the commission ~~[or receiving funds from the commission];~~ or

(4) uses or receives a substantial amount of tangible goods, services, or money ~~[funds]~~ from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(b) A public member of the commission may not, except as a consumer:

(1) have a financial interest in a funeral establishment; or

(2) be related to a person within the second degree by affinity or third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, who has a financial interest in a funeral establishment.

SECTION 1.08. Section 651.053, Occupations Code, is amended to read as follows:

Sec. 651.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a ~~[nonprofit,]~~ 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 commission and may not be a commission 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 the funeral service industry; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the funeral service industry. [A commissioner or an employee of the commission who carries out the functions of the commission may not be related within the second degree by affinity or within the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, to a person who is an officer, employee, or paid consultant of a trade association in the funeral industry.]

(c) ~~[An officer, employee, or paid consultant of a Texas trade association in the field of funeral services may not be a commission member and may not be an employee who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.~~

~~[(d) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of funeral services may not be a member of the commission and may not be an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.~~

~~[(e) A person may not be appointed to the commission if:~~

~~[(1) the person is an officer or employee of a corporation or other business entity directly or indirectly controlling or operating more than three funeral establishments; and~~

~~[(2) a member of the commission is an officer or employee of the same corporation or entity.~~

~~[(f) A violation of Subsection (e) that occurs after a member is appointed constitutes a vacancy of each of those members' positions, as of the date of the completion of the merger or other agreement. The vacancy shall be filled by the governor as soon as practicable. A member appointed to fill a vacancy under this subsection serves for the remainder of the vacated term.~~

~~[(g) A person may not be [serve as] a member of the commission or act as the general counsel 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 commission.~~

SECTION 1.09. Section 651.104, Occupations Code, is amended to read as follows:

Sec. 651.104. DIVISION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate ~~[define]~~ the policy-making responsibilities of the commission and the management responsibilities of the executive director and staff of the commission.

SECTION 1.10. Section 651.107, Occupations Code, is amended to read as follows:

Sec. 651.107. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program ~~[to ensure implementation]~~ of ~~[an]~~ equal employment opportunity to ensure that

~~[program under which]~~ all personnel decisions ~~[transactions]~~ 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, ~~[appointment,]~~ training, and promotion of personnel, that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an [a-comprehensive] analysis of the extent to which the composition of the commission's personnel is in accordance with [commission workforce that meets] federal and state law and a description of [guidelines;

~~](3) procedures by which a determination can be made of significant underuse in the commission workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and~~

~~](4) reasonable methods to achieve compliance with federal and state law [appropriately address those areas of significant underuse].~~

(c) The ~~[(b)-A]~~ policy statement ~~[prepared under Subsection (a)]~~ must:

(1) ~~[cover an annual period,]~~ be updated at least annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

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

~~[(e) The governor shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.]~~

SECTION 1.11. Section 651.157, Occupations Code, is amended to read as follows:

Sec. 651.157. INSPECTION OF FUNERAL ESTABLISHMENT.

(a) Except as provided by Subsection (b), a [Each] licensed funeral establishment shall be inspected at least once every two years [annually] by an agent of the commission or by an agent of the state or a political subdivision authorized by the commission to make inspections on its behalf.

(b) If the commission finds a violation of this chapter or of Chapter 193 or 361, Health and Safety Code, the commission shall inspect the funeral establishment annually until the commission determines that the establishment is free of violations.

(c) A report of each [the annual] inspection made under this section shall be filed with the commission.

(d) The commission by rule shall establish:

(1) procedures for the inspection of a funeral establishment required by this section; and

(2) criteria, including consideration of the establishment's inspection and complaint history, regarding when the commission should inspect an establishment based on the risk of a violation at an establishment.

(e) [(b)] A premises on which funeral directing or embalming is practiced shall be open at all times to inspection for any violation of this chapter or of Chapter 193 or 361, Health and Safety Code, by:

(1) an agent of the commission;

(2) an authorized agent of the state; or

(3) an authorized agent of the county or municipality in which the premises is located.

(f) [(e)] Before a commission agent inspects a funeral establishment, the agent shall review the inspection reports filed with the commission on the establishment. During the inspection, the agent shall determine whether previously identified problems have been corrected and whether a pattern of violations exists. The commission shall consider the information from the inspection reports in determining whether a penalty should be imposed against an establishment.

SECTION 1.12. Subchapter D, Chapter 651, Occupations Code, is amended by adding Section 651.1575 to read as follows:

Sec. 651.1575. INSPECTION OF CEMETERY OR CREMATORY.

(a) The commission may inspect a cemetery or crematory only if the commission receives a complaint about that facility under Section 651.202.

(b) A report of an inspection made under this section shall be filed with the commission.

(c) The commission by rule shall establish procedures for the inspection of a cemetery or crematory required by this section.

SECTION 1.13. Section 651.202, Occupations Code, is amended to read as follows:

Sec. 651.202. COMPLAINTS. (a) The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide for that notice:

(1) on each license or registration form, application, or written contract for services of a person regulated under this chapter;

(2) on a sign prominently displayed in the place of business of each person regulated under this chapter; or

(3) in a bill for service provided by a person regulated under this chapter.

(b) The commission shall adopt rules concerning a complaint filed under this section. The rules adopted under this subsection must:

(1) establish procedures regarding the receipt, investigation, and disposition of complaints;

(2) allow for an informal hearing process;

(3) establish a formal hearing process;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint;

(5) ensure that the license holder or registrant who is the subject of the complaint has an opportunity to be heard regarding the complaint; and

(6) establish procedures by which a commission employee may dismiss a complaint, subject to approval by the executive director or the executive director's designee, if the investigation does not reveal a violation.

(c) The commission shall investigate each complaint received by the commission relating to a funeral director, embalmer, provisional license holder, [or] funeral establishment, or other person licensed or registered under this chapter.

(d) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's

policies and procedures relating to complaint investigation and resolution, including ~~[(c) If a person files a complaint with the commission relating to a funeral director, embalmer, provisional license holder, or licensed funeral establishment, the commission shall furnish to the person]~~ an explanation of the remedies that are available to the person under this chapter and information about other appropriate state or local agencies or officials with which the person may file a complaint.

~~(e) The [(d) If a written complaint is filed with the commission that the commission has authority to resolve, the]~~ commission, at least quarterly until final disposition of the complaint ~~[and on final disposition of the complaint]~~, shall notify the person filing ~~[parties to]~~ the complaint and each person who is a subject of the complaint of the status of the investigation ~~[complaint]~~ unless the notice would jeopardize an undercover investigation.

~~(f) [(e)]~~ The person who filed the complaint ~~[complainant]~~ is entitled to attend any proceeding resulting from the complaint.

SECTION 1.14. Subsection (a), Section 651.203, Occupations Code, is amended to read as follows:

(a) The commission shall maintain a ~~[keep an information]~~ file on each written ~~[about each]~~ complaint filed with the commission ~~[that the commission has authority to resolve]~~. The file must ~~[commission shall]~~ include ~~[in each information file]~~:

- (1) the subject matter ~~[a description]~~ of the complaint;
- (2) the date the complaint is received by the commission ~~[filed]~~;
- (3) the name of the person who filed the complaint ~~[complainant]~~;
- (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 commission closed the file without taking action other than to investigate the complaint ~~[a description of any information obtained by the commission after investigating the complaint;~~

~~[(5) a description of and the date of any formal action taken by the commission relating to the complaint;~~

~~[(6) a description of the current status of the complaint; and~~

~~[(7) any other information the commission considers appropriate].~~

SECTION 1.15. Section 651.254, Occupations Code, is amended to read as follows:

Sec. 651.254. LICENSE EXAMINATIONS; RESULTS. (a) The examinations for a funeral director's license and an embalmer's license shall be held at least annually. The examinations shall be given at the time and place designated by the commission. The commission shall give notice of the examinations.

(b) Not later than the 30th day after the date a person takes a ~~[on which a funeral director's or embalmer's]~~ licensing examination ~~[is administered]~~ under this chapter, the commission shall notify the person ~~[each examinee]~~ of the results of the examination.

~~(c) If~~ the ~~[an]~~ examination is graded or reviewed by a ~~[national]~~ testing service;

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

(2) if[-

~~[(c) If the]~~ notice of the examination results ~~[graded or reviewed by a national testing service]~~ will be delayed for longer than 90 days after the examination date, the commission shall notify the person ~~[examinee]~~ of the reason for the delay before the 90th day.

(d) The commission may require a testing service to notify a person of the results of the person's examination.

(e) If requested in writing by a person who fails a licensing examination administered under this chapter, the commission shall furnish the person with an analysis of the person's performance on the examination.

~~[(c) Notice of the time and place of an examination must be filed with the Texas Register at least seven days before the examination.]~~

SECTION 1.16. Subchapter F, Chapter 651, Occupations Code, is amended by adding Section 651.2595 to read as follows:

Sec. 651.2595. PROVISIONAL LICENSE. (a) The commission may issue a provisional license to an applicant currently licensed in another jurisdiction who seeks a license in this state and who:

(1) has been licensed in good standing as a funeral director or embalmer for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the commission relating to the practice of funeral director or embalmer; and

(3) is sponsored by a person licensed by the commission under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.

(b) The commission may waive the requirement of Subsection (a)(3) for an applicant if the commission determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional license is valid until the date the commission approves or denies the provisional license holder's application for a license. The commission shall issue a license under this chapter to the provisional license holder if:

(1) the provisional license holder is eligible to be licensed under Section 651.259; or

(2) the provisional license holder:

(A) passes the part of the examination under Subsection (a) that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of funeral directing or embalming in this state;

(B) meets the academic and experience requirements for a license under this chapter; and

(C) satisfies any other licensing requirements under this chapter.

(d) The commission shall approve or deny a provisional license holder's application for a license not later than the 180th day after the date the

provisional license is issued. The commission may extend the 180-day period if the results of an examination have not been received by the commission before the end of that period.

(e) The commission may establish a fee for provisional licenses in an amount reasonable and necessary to cover the cost of issuing the license.

SECTION 1.17. Section 651.262, Occupations Code, is transferred to Subchapter D, Chapter 651, Occupations Code, redesignated as Section 651.164, Occupations Code, and amended to read as follows:

Sec. 651.164, [~~651.262~~.] LICENSE OR REGISTRATION EXPIRATION. The commission by rule may adopt a system under which [~~funeral director's and embalmer's~~] licenses or registrations expire on various dates during the year. [~~The commission shall adjust dates for sending notice regarding payment of fees and license suspension for nonpayment according to the system, if any, adopted under this subsection.~~] For the [~~a~~] year in which the license or registration expiration date is changed, the commission shall prorate license or registration fees [~~are prorated~~] on a monthly basis so that each license holder or registrant pays only that portion of the license or registration fee that is allocable to the number of months during which the license or registration is valid. On renewal of the license or registration on the new expiration date, the total license or registration renewal fee is payable.

SECTION 1.18. Section 651.263, Occupations Code, is transferred to Subchapter D, Chapter 651, Occupations Code, redesignated as Section 651.165, Occupations Code, and amended to read as follows:

Sec. 651.165 [~~651.263~~]. RENEWAL OR REINSTATEMENT OF LICENSE. (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the commission before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the commission a [~~the required~~] renewal fee that is [~~and a penalty fee~~] equal to 1-1/2 times the normally required [~~one-half the amount of the~~] renewal fee [~~for the license~~].

(c) A person whose license [~~If a person's license~~] has been expired for more than 90 days but less than one year [~~five years, the person~~] may renew the license by paying to the commission a [~~all unpaid~~] renewal [~~fees and a penalty~~] fee that is equal to two times the normally required [~~one-half of the total amount of the unpaid~~] renewal fee [~~fees~~].

(d) A person whose [~~(e) If a person's~~] license has been expired for one year or more [~~five years or longer, the person~~] may not renew the license. The person may obtain a new license by [~~submitting to reexamination and~~] complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

(e) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination. The person must pay to the commission a fee that is equal to two times the normally required renewal fee for the license.

(f) ~~(d)~~ At least 30 days before the expiration of a person's license, the commission shall send written notice of the impending license expiration to the person at the person's last known address according to the records of the commission.

SECTION 1.19. Section 651.266, Occupations Code, is amended to read as follows:

Sec. 651.266. CONTINUING EDUCATION. The commission by rule may require continuing education as a condition for license renewal except for a license holder described by Section 651.155 or an applicant for renewal described by ~~Section 651.155 or~~ Section 651.265. If the commission requires continuing education, the commission shall require completion of a minimum number of hours of ethics training as a required part of that education.

SECTION 1.20. The heading to Section 651.405, Occupations Code, is amended to read as follows:

Sec. 651.405. RETAIL PRICE LIST; FUNERAL ESTABLISHMENT.

SECTION 1.21. Subchapter I, Chapter 651, Occupations Code, is amended by adding Section 651.4055 to read as follows:

Sec. 651.4055. RETAIL PRICE LIST; CEMETERY OR CREMATORY.

(a) In this section, "retail price list" means a printed or typewritten list of the retail price of items or services provided by a cemetery or crematory.

(b) A retail price list must contain:

(1) the name, address, and telephone number of the cemetery or crematory;

(2) the effective date for the stated prices;

(3) notice required by Subsection (c); and

(4) any other items that the commission may by rule require.

(c) The retail price list must contain the following printed notice: "The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the goods and services you selected."

SECTION 1.22. The heading to Section 651.406, Occupations Code, is amended to read as follows:

Sec. 651.406. PURCHASE AGREEMENT; FUNERAL ESTABLISHMENT.

SECTION 1.23. Subchapter I, Chapter 651, Occupations Code, is amended by adding Section 651.4065 to read as follows:

Sec. 651.4065. PURCHASE AGREEMENT; CEMETERY OR CREMATORY. (a) A purchase agreement must state:

(1) the name, address, and telephone number of the cemetery or crematory;

(2) the amount paid or owed to another person by the cemetery or crematory on behalf of the customer and each fee charged the customer for the cost of advancing funds or becoming indebted to another person on behalf of the customer;

(3) the printed notice required by Subsection (b);

(4) the name, mailing address, and telephone number of the commission;

(5) a statement that complaints may be directed to the commission;
and

(6) any other items that the commission may by rule require.

(b) The purchase agreement must contain the following printed notice: "Charges are only for those items that you selected or that are required. If we are required by law to use any items, we will explain the reasons in writing below."

(c) The registrant for the cemetery or crematory shall sign the purchase agreement.

(d) If the customer selects a package arrangement based on unit pricing, the itemization requirement is satisfied by providing a purchase agreement that itemizes the discount provided by the package arrangement.

SECTION 1.24. Subchapter I, Chapter 651, Occupations Code, is amended by adding Section 651.408 to read as follows:

Sec. 651.408. USE OF CEMETERY AND CREMATORY SERVICES. The fact that a funeral director contracts for cemetery or crematory services, including as part of a package arrangement, does not limit the director's liability to the customer for those services.

SECTION 1.25. Section 651.451, Occupations Code, is amended to read as follows:

Sec. 651.451. CERTAIN FRAUDULENT AND DECEPTIVE ACTS. A person violates this chapter if the person:

(1) presents to the commission a license, certificate, registration, or diploma that was illegally or fraudulently obtained;

(2) uses fraud or deception in passing the examination, including impersonating or acting as a proxy for another person in the examination;

(3) purchases, sells, barter, or uses, or offers to purchase, sell, barter, or use, a license, registration, certificate, or transcript of a license, registration, or certificate in or incident to an application to the commission for a license or registration issued under this chapter [~~to practice as a funeral director or embalmer~~];

(4) alters, with fraudulent intent, a [~~funeral director's or embalmer's~~] license, registration, or certificate issued under this chapter or a transcript of a license, registration, or certificate;

(5) uses a [~~funeral director's or embalmer's~~] license, registration, certificate, or diploma issued under this chapter or a transcript of a [~~funeral director's or embalmer's~~] license, registration, certificate, or diploma that has been fraudulently purchased, issued, counterfeited, or materially altered;

(6) impersonates a funeral director, [~~or~~] embalmer, or other person regulated under this chapter;

(7) permits another to use the person's license or registration to perform an activity regulated under this chapter [~~practice as a funeral director or embalmer in this state~~]; or

(8) presents false certification of work done as a provisional license holder.

SECTION 1.26. Section 651.452, Occupations Code, is amended to read as follows:

Sec. 651.452. LACK OF FITNESS TO PRACTICE. A person violates this chapter if the person is:

- (1) convicted of:
- (A) a misdemeanor related to the practice of embalming, ~~or~~ funeral directing, or another activity regulated under this chapter; or
 - (B) a felony;
- (2) unfit to practice as a funeral director or embalmer because of insanity and determined by a court to be of unsound mind; or
- (3) unfit to practice because of current substance abuse.

SECTION 1.27. Section 651.455, Occupations Code, is amended to read as follows:

Sec. 651.455. FALSE OR MISLEADING STATEMENTS REGARDING FUNERAL MERCHANDISE OR FUNERAL, CEMETERY, OR CREMATORY SERVICES. (a) A person violates this chapter if the person uses a statement that misleads or deceives the public, including a false or misleading statement regarding:

- (1) a legal, religious, or cemetery requirement for funeral merchandise or funeral, cemetery, or crematory services;
 - (2) the preservative qualities of funeral merchandise or funeral, cemetery, or crematory services in preventing or substantially delaying natural decomposition of human remains;
 - (3) the airtight or watertight properties of a casket or outer enclosure;
- or

(4) the licenses or registrations held by the personnel in the operation of the cemetery, crematory, or funeral establishment.

(b) This section does not apply to cemetery or crematory services that occur after burial or inurnment.

SECTION 1.28. Subchapter K, Chapter 651, Occupations Code, is amended by adding Section 651.5025 to read as follows:

Sec. 651.5025. IMMEDIATE LICENSE REVOCATION; EFFECT OF CERTAIN FELONY CONVICTIONS. (a) The commission may revoke the license of a license holder without a hearing if the commission determines from the information presented to it that the license holder has been convicted of a felony related to the practice of embalming, funeral directing, or another activity regulated by the commission under this chapter. The commission shall notify the license holder if it decides to revoke the license.

(b) The license holder may appeal the decision by submitting a written request for a hearing in accordance with this chapter and Chapter 2001, Government Code, not later than the 30th day after the date of the revocation.

SECTION 1.29. Subchapter L, Chapter 651, Occupations Code, is amended by adding Section 651.5515 to read as follows:

Sec. 651.5515. PENALTY GUIDELINES. (a) The commission by rule shall adopt guidelines that define and summarize the violations that occur under this subchapter to assist the commission in maintaining consistency in determining the amount of an administrative penalty assessed under Section 651.552. Using those guidelines and the summary, the commission shall establish and maintain a chart that lists:

- (1) the most common violations;
- (2) the penalty amounts assessed for those violations; and
- (3) the factors used to grade each type of violation before determining the penalty amount under Section 651.552.

(b) The commission shall consider using focus groups to obtain business and consumer input to match appropriate penalties to violations before proposing the rules under this section.

(c) The commission shall post the guidelines on the commission's Internet site.

SECTION 1.30. Section 651.552, Occupations Code, is amended to read as follows:

Sec. 651.552. AMOUNT OF PENALTY. (a) The amount of the administrative penalty shall be not less than \$100 or more than \$5,000 for each violation.

(b) In determining the amount of the penalty, the commission shall base its decision on:

(1) the seriousness of the violation;

(2) the threat the violation poses to health and safety;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts made to correct the violation;

(6) the guidelines adopted under Section 651.5515; and

(7) any other matter that justice requires [employ guidelines established by commission rule].

SECTION 1.31. Subsection (b), Section 651.553, Occupations Code, is amended to read as follows:

(b) Not later than the 10th day after the date the report is issued, the commission shall send to the person charged with the violation:

(1) a copy of the report;

(2) a statement of the right of the person to a hearing relating to the alleged violation; ~~and~~

(3) a statement of the amount of the penalty; ~~and~~

(4) an explanation for any significant deviation from the penalty amount assessed for similar violations.

SECTION 1.32. Chapter 651, Occupations Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. REGISTRATION REQUIREMENTS:
CEMETERIES AND CREMATORIES

Sec. 651.651. DEFINITION. In this subchapter, "perpetual care cemetery" means a person who notifies the Texas Department of Banking of its intent to operate a perpetual care cemetery in this state under Section 712.0031, Health and Safety Code.

Sec. 651.652. APPLICABILITY. (a) This subchapter applies only to a cemetery or crematory that sells goods or services related to the burial or final disposition of a body.

(b) This subchapter does not apply to the maintenance of a cemetery or crematory, including maintenance of any goods or services provided under Chapter 711 or 712, Health and Safety Code.

Sec. 651.653. CEMETERY OR CREMATORY REGISTRATION REQUIREMENTS. (a) A person may not conduct a cemetery or crematory business in this state unless an individual who is the owner or operator of the cemetery or crematory registers with the commission.

(b) A cemetery or crematory may be owned by a person who is not registered under this chapter.

(c) To register, the individual must apply for a registration and pay the registration fee. The commission shall register the individual on determining that the individual satisfies the requirements of this section.

(d) The individual must:

(1) explain the purpose of the cemetery or crematory business;

(2) provide the address and other contact information for the business;

and

(3) identify the individual owner or operator who is registering.

(e) The commission by rule shall establish the fee to register under this subchapter. The fee must include the cost of regulating registrants under this chapter, including discipline and investigation of complaints.

Sec. 651.654. PERPETUAL CARE CEMETERIES. (a) On request by the commission, the Texas Department of Banking shall provide the commission a list of perpetual care cemeteries, including the address and other contact information for each cemetery. The commission shall annually register, under this subchapter, each perpetual care cemetery on that list.

(b) A perpetual care cemetery is not required to pay a registration fee under this subchapter.

Sec. 651.655. RENEWAL OF CEMETERY OR CREMATORY REGISTRATION. (a) The commission shall mail written notice to a registrant of the impending expiration of the registration not later than the 30th day before the expiration date of the registration. The notice must state that:

(1) to renew the registration, the registrant must pay the renewal fee not later than the date on which the registration expires; and

(2) the registration is automatically renewed on receipt of the renewal fee.

(b) A registrant who fails to pay the renewal fee by the due date is subject to a late payment penalty equal to the amount charged for the renewal fee.

(c) If the registration is expired for longer than 30 days, the registrant may not renew the registration, and the cemetery or crematory may not be operated, until the owner or operator registers as provided by Section 651.653.

(d) This section does not apply to a perpetual care cemetery.

SECTION 1.33. The heading to Subtitle L, Title 3, Occupations Code, is amended to read as follows:

SUBTITLE L. CEMETERY AND CREMATORY SERVICES,
FUNERAL DIRECTING, AND EMBALMING

SECTION 1.34. The heading to Chapter 651, Occupations Code, is amended to read as follows:

CHAPTER 651. CEMETERY AND CREMATORY SERVICES,
FUNERAL DIRECTING, AND EMBALMING

ARTICLE 2. INFORMATION AND LEGAL RESOURCES

SECTION 2.01. DEFINITIONS. In this article:

(1) "Funeral commission" means the Texas Funeral Service Commission.

(2) "Task force" means the task force created under Section 2.06 of this article.

SECTION 2.02. INFORMATION RESOURCES. (a) The funeral commission shall contract with the Department of Information Resources to improve the compilation of statistics and other information using information resources. The contract must expire before the fiscal year that begins September 1, 2003. In order to meet this goal, the contract shall require the department to analyze and implement changes to meet the technology needs of the funeral commission regarding the compilation of information necessary to effectively regulate the funeral industry.

(b) The statistics and other information compiled under Subsection (a) of this section must include:

- (1) data about complaints, licenses, registrations, and sanctions, including the number of new individual versus dual licenses issued;
- (2) the number of complaints received that are outside of the funeral commission's jurisdictions;
- (3) the average cost of complaints resolved;
- (4) summaries of violations and actions taken; and
- (5) any information necessary to help the attorney general enforce delinquent child support orders among persons licensed or registered by the funeral commission.

SECTION 2.03. LEGAL RESOURCES. The funeral commission shall contract with the attorney general to ensure adequate access to legal services from the attorney general, including:

- (1) consultation about the daily operations of the funeral commission, including complaint, inspection, and other enforcement procedures; and
- (2) legal interpretations regarding Chapter 651, Occupations Code.

SECTION 2.04. PLAN. Not later than December 1, 2001, the funeral commission shall develop a plan that details the manner in which it will implement the requirements of Sections 2.02 and 2.03 of this article. The plan must include:

- (1) a priority for each required task;
- (2) the identity of any solutions that may be quickly implemented;
- (3) a cost estimate; and
- (4) a schedule for task completion.

SECTION 2.05. STATUS REPORTS. The funeral commission shall report once each quarter on the status of its efforts under Sections 2.02, 2.03, and 2.04 of this article to:

- (1) the Sunset Advisory Commission; and
- (2) the task force.

SECTION 2.06. TASK FORCE. (a) A task force is created to:

- (1) review the plan developed by the funeral commission under Section 2.04 of this article; and
- (2) monitor the funeral commission's implementation of the changes recommended by the plan.

(b) The task force is composed of six members, appointed not later than October 1, 2001, as follows:

- (1) a representative from and appointed by each of the following state officers or agencies:
 - (A) the attorney general;
 - (B) the comptroller of public accounts;

(C) the Department of Information Resources; and

(D) the state auditor;

(2) a consumer representative, appointed by the comptroller of public accounts; and

(3) a representative of the funeral industry, appointed by the comptroller of public accounts.

(c) The representative of the comptroller of public accounts shall serve as the presiding officer of the task force.

(d) The task force shall meet at least once a month.

(e) The task force is abolished and this section expires January 15, 2003.

SECTION 2.07. This article expires September 1, 2003.

ARTICLE 3. REPEALER; TRANSITION; EFFECTIVE DATE

SECTION 3.01. (a) Subsections (a) and (b), Section 651.305, Section 651.354, and Subsection (i), Section 651.506, Occupations Code, are repealed.

(b) Section 651.353, Occupations Code, is repealed effective September 30, 2001.

SECTION 3.02. (a) In this section:

(1) "Funeral commission" means the Texas Funeral Service Commission.

(2) "Sunset commission" means the Sunset Advisory Commission.

(b) In performing its duties under Section 651.002, Occupations Code, as amended by this Act, and Chapter 325, Government Code (Texas Sunset Act), the sunset commission may limit the scope of its review of the funeral commission.

(c) As part of the review, the sunset commission shall determine how much progress the funeral commission has made in addressing and implementing solutions required by this Act, including solutions regarding:

(1) information resources and legal services issues under Article 2 of this Act;

(2) formal rules outlining an open and fair complaint system;

(3) clearer guidelines to ensure a more effective use of penalties;

(4) a risk-based approach to scheduling inspections; and

(5) any other analyses that it determines are appropriate.

(d) Not later than September 1, 2002, the funeral commission shall report to the sunset commission on the status of its progress under this Act.

(e) If the sunset commission determines that the funeral commission has not made substantial progress, the sunset commission shall consider whether to recommend that the legislature abolish the funeral commission and transfer its functions to the Texas Department of Licensing and Regulation.

SECTION 3.03. Not later than March 1, 2002, the Texas Funeral Service Commission shall adopt the rules required by Subsection (b), Section 651.202, Occupations Code, as amended by this Act. In adopting these rules, the commission shall examine, and use as a guide, the rules adopted by the Board of Nurse Examiners relating to complaint investigation, disposition, and related proceedings.

SECTION 3.04. Not later than March 1, 2002, the Texas Funeral Service Commission shall adopt the rules required by Section 651.5515, Occupations Code, as added by this Act.

SECTION 3.05. (a) The Texas Funeral Service Commission shall study the risk-based assessment methods used by the Texas Department of Health and the Texas Department of Licensing and Regulation in conducting inspections required by law.

(b) Based on the study conducted under Subsection (a) of this section, not later than March 1, 2002, the Texas Funeral Service Commission shall adopt the rules required by Subdivision (2), Subsection (d), Section 651.157, Occupations Code, as added by this Act.

SECTION 3.06. (a) Not later than November 1, 2001, the governor shall appoint the additional member of the Texas Funeral Service Commission required under Subdivision (2), Subsection (a), Section 651.051, Occupations Code, as amended by this Act.

(b) The changes in law made by this Act in the qualifications of, and the prohibitions applying to, the members of the Texas Funeral Service Commission do not affect the entitlement of a person serving as a member of the commission immediately before September 1, 2001, to continue to carry out the functions of the person's office for the remainder of the person's term. The changes in law apply only to a person appointed on or after September 1, 2001. This Act does not prohibit a person who is a member of the Texas Funeral Service Commission immediately before September 1, 2001, from being reappointed as a commission member if the person has the qualifications required for the position under Subchapter B, Chapter 651, Occupations Code, as amended by this Act.

SECTION 3.07. (a) In accordance with Subsection (c), Section 311.031, Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of the following gives effect to certain changes made by Chapters 1201 and 1476, Acts of the 76th Legislature, Regular Session, 1999, as follows:

(1) Section 651.002, Occupations Code, as set out in Section 1.04 of this Act, gives effect to changes made by Section 1, Chapter 1201;

(2) Subsection (a), Section 651.051, Occupations Code, as set out in Section 1.05 of this Act, gives effect to changes made by Section 2, Chapter 1476; and

(3) Section 651.053, Occupations Code, as set out in Section 1.08 of this Act, gives effect to changes made by Sections 5 and 6, Chapter 1476.

(b) To the extent of any conflict, this Act prevails over another Act of the 77th Legislature, Regular Session, 2001, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 3.08. This Act takes effect September 1, 2001.

**HB 2809 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2809, A bill to be entitled An Act relating to statutory revision and statutory construction.

Representative Wolens 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 2809**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2809**: Wolens, chair, Uher, Thompson, Shields, and P. King.

**HB 3313 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3313, A bill to be entitled An Act relating to elementary class size limits in public schools.

Representative Dunnam 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 3313**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3313**: Dunnam, chair, Hochberg, Dutton, Olivo, and Hardcastle.

**HB 776 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 776, A bill to be entitled An Act relating to the implementation, operation, and maintenance of the criminal justice information system.

On motion of Representative Haggerty, the house concurred in the senate amendments to **HB 776**.

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

Amend **HB 776** by adding appropriately numbered SECTIONS to read as follows and by renumbering existing SECTIONS accordingly:

SECTION _____. Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.048 to read as follows:

Sec. 411.048. THREATS AGAINST PEACE OFFICERS. (a) In this section:

(1) "Criminal justice agency" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

(2) "Peace officer" has the meaning assigned by Section 1.07, Penal Code.

(b) The bureau of identification and records shall establish and maintain a central index in the law enforcement information system maintained by the department to:

(1) collect and disseminate information relating to an individual's expression of intent to inflict serious bodily injury or death on a peace officer; and

(2) alert a peace officer of an expression of intent to inflict serious bodily injury or death on the officer.

(c) A criminal justice agency, after making each determination required under Subsection (d), shall immediately enter into the information system an electronic report of an individual who expresses an intent to inflict serious bodily injury or death on a peace officer. The agency shall enter the information in the form and manner provided by rules adopted by the director.

(d) Before entering information collected under this section into the information system, a criminal justice agency must determine that the report described by Subsection (c):

(1) is not from an anonymous source; and

(2) consists of an expression of intent to inflict serious bodily injury or death on a peace officer.

(e) On proper inquiry into the information system, the department shall disseminate information collected under this section to a criminal justice agency as reasonably necessary to protect the safety of a peace officer. The criminal justice agency may use information disseminated under this subsection in the manner provided by rules adopted by the director.

(f) The department shall promptly respond to a request to disclose information collected under this section by an individual who is the subject of the information.

(g) An individual who is the subject of information collected under this section may request that the director, the director's designee, or a court review the information to determine whether the information complies with rules adopted by the director. The review shall be conducted using the same procedure for reviewing criminal information collected under Chapter 61, Code of Criminal Procedure.

(h) A peace officer or criminal justice agency is not liable for an act or omission relating to the collection, use, or dissemination of information collected under this section in accordance with rules adopted by the director.

(i) The director may adopt rules to implement and enforce this section. Any rule adopted by the director under this section must comply with the provisions of the Code of Federal Regulations, Title 28, Part 23, as it applies to criminal intelligence systems.

SECTION _____. Section 552.108(a), Government Code, is amended to read as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; [or]

(3) it is information relating to a threat against a peace officer collected or disseminated under Section 411.048; or

(4) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 776** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION __. Subchapter A, Chapter 495, Government Code, is amended by adding Section 495.008 to read as follows:

Sec. 495.008. AUDITING AND MONITORING CONTRACTS. (a) The department shall develop a comprehensive methodology for enhanced auditing and monitoring of all facilities operated under contract with the department that house inmates of the department and releasees under the supervision of the department. To achieve this objective, the department shall first review existing auditing, monitoring, and oversight capabilities of the department to determine what further procedures and resources are necessary to achieve this goal.

(b) The department shall ensure that all new and renewed contracts described by Subsection (a) include:

(1) a provision that the department or a designee of the department may conduct periodic contract compliance reviews, without advance notice, to monitor vendor performance;

(2) minimum acceptable standards of performance prescribed by the department that include provisions regarding the health, safety, and welfare of inmates and releasees;

(3) a provision that if a review determines that a vendor is not in compliance with the contract, the department may require that the vendor's per diem compensation be withheld until the vendor meets contract requirements or the vendor is replaced;

(4) a provision requiring a vendor not in compliance with the contract to implement a plan of corrective action approved by the department; and

(5) a provision under which the state is indemnified for costs of litigation and for any damages in lawsuits alleging that the health, safety, or welfare of an inmate or releasee in a contract facility is not protected.

(c) The department shall complete at least one enhanced audit for each facility described by Subsection (a), without regard to whether the facility is operated by a public or private vendor. The enhanced audit must include an enhanced contract compliance review of any vendors hired by a community supervision and corrections department to operate a facility.

(d) The department, in conjunction with an advisory committee composed of state officials and private officials from within the industry, shall adopt rules to implement the requirements of this section.

(e) The department shall develop an appeals process, incorporated by reference into all new and renewed contracts, under which a vendor may appeal any imposed sanction under the contract, with the appeals process including the right to a formal hearing and a right to a final determination by the board.

(f) The department shall submit a report to the governor and the Legislative Budget Board not later than January 1, 2003, describing its efforts

to implement the requirements of this section. The report must include a summary of contracts and vendors, compliance reviews conducted, incidents of contract noncompliance, sanctions imposed, corrective actions taken, and current contract status. This subsection expires February 1, 2003.

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).

INTRODUCTION OF GUESTS

The speaker recognized Representative Y. Davis, who introduced the family of the Honorable Joseph John "Joe" Salem.

HR 947, in memory of former State Representative Joseph John "Joe" Salem of Corpus Christi, having been previously adopted, was read.

INTRODUCTION OF GUESTS

The speaker recognized Representative Salinas, who introduced the incoming superintendent for Corpus Christi Independent School District, his family, and other CCISD officials.

HCR 296 - ADOPTED

(by Farabee)

The following privileged resolution was laid before the house:

HCR 296

WHEREAS, **HB 1072** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains a technical error that should be corrected; now, therefore, be it

RESOLVED by the 77th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 1072** in Section 2 of the bill, amending Section 593.012(a), by striking "with a law enforcement agency" and substituting "to a law enforcement agency".

HCR 296 was adopted without objection.

HR 1164 - ADOPTED

(by Morrison)

Representative Morrison moved to suspend all necessary rules to take up and consider at this time **HR 1164**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1164, Recognizing Cuero, Texas, as a starting point of the Chisholm Trail and as the birthplace of numerous Texas cattle drives.

HR 1164 was adopted without objection.

HR 1163 - ADOPTED
(by Thompson)

Representative Thompson moved to suspend all necessary rules to take up and consider at this time **HR 1163**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1163, Commending Mr. Claude L. Cole for the many achievements he has made in helping to shape tomorrow's leaders.

HR 1163 was adopted without objection.

SB 391 - MOTION TO RECONSIDER

Representative Solomons moved to suspend the rules and reconsider the vote by which **SB 391** failed to pass to third reading.

The motion to reconsider was lost.

POSTPONED BUSINESS

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

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.

CSSB 309 was read second time on May 18 and was postponed until this time.

Representative Bosse moved to postpone consideration of **CSSB 309** until 8 a.m. tomorrow.

The motion prevailed without objection.

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.

CSSB 1778 was read second time on May 18 and was postponed until this time.

Amendment No. 1

Representative Hinojosa offered the following amendment to **CSSB 1778**:

Amend **CSSB 1778** (House Committee Printing) as follows:

- (1) Everywhere it appears in the bill, strike "or private vendor".
- (2) Everywhere it appears in the bill, strike "or vendor".
- (3) Everywhere it appears in the bill, strike "collection fees" and substitute "attorney's fees".
- (4) In SECTION 1, in added Article 103.0031(d), Code of Criminal Procedure (Page 2, line 9), strike "collection costs" and substitute "attorney's fees".

(5) In SECTION 1, in added Article 103.0031(d), Code of Criminal Procedure (Page 2, line 10), strike "or vendor's".

(6) In SECTION 1, in added Article 103.0031(d), Code of Criminal Procedure (Page 2, line 16), strike "vendor's" and substitute "attorney's".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Isett offered the following amendment to **CSSB 1778**:

Amend **CSSB 1778** (House Committee Printing) as follows:

(1) In SECTION 1, in the introductory language to the SECTION (page 1, line 5), strike "Subsection (c)" and substitute "Subsections (c) and (d)".

(2) In SECTION 1, in amended Article 103.003, Code of Criminal Procedure (page 1, between lines 9 and 10), insert the following:

(d) The commissioners court of a county or the governing body of a municipality may authorize the addition of collection fees on debts and accounts receivable described by Article 103.0031 and collected by the county or municipality, as appropriate, in the same manner as the commissioners court or governing body may authorize the addition of the fees on debts and accounts referred for collection to an attorney or vendor under that article.

Representative Hinojosa moved to table Amendment No. 2.

The motion to table prevailed.

CSSB 1778, as amended, was passed to third reading. (Danburg, G. Lewis, Solomons, and Thompson recorded present, not voting)

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, postponed until May 18, and was again postponed until this time.

Representative Wolens moved to postpone consideration of **CSSB 1783** until 6 p.m. today.

The motion prevailed without objection.

MESSAGE FROM THE SENATE

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

SB 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, postponed until May 18, and was again postponed until this time.

SB 1053 was passed to third reading. (Nixon, Seaman, and Williams recorded voting no)

**MAJOR STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 312 ON THIRD READING
(Chisum - House Sponsor)**

SB 312, A bill to be entitled An Act relating to the review and functions of the Texas Water Development Board.

Amendment No. 1

Representative Puente offered the following amendment to **SB 312**:

Amend the House Committee Substitute for **SB 312** on third reading by inserting the following new SECTION 28 between lines 17 and 18 on page 31 of the committee substitute to read as follows, and renumbering the subsequent sections accordingly:

SECTION 28. Section 36.001, Water Code, is amended by inserting a new Subdivision (18) to read as follows:

(18) "Public water supply well" means, for purposes of a district governed by this chapter, a well that produces the majority of its water for use by a public water system.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Luna offered the following amendment to **SB 312**:

Amend **SB 312** by inserting the appropriately numbered Sections, to read as follows:

SECTION __. Section 11.002, Water Code, is amended by adding Subdivision (11) to read as follows:

(11) "River basin" means a river or coastal basin designated by the board as a river basin under Section 16.051. The term does not include waters originating in the bays or arms of the Gulf of Mexico.

SECTION __. Subsection (p), Section 11.085, Water Code, is amended to read as follows:

~~(p) [For the purposes of this section, a basin is designated as provided in accordance with Section 16.051 of this code.]~~ A river basin may not be redesignated in order to allow a transfer or diversion of water otherwise in violation of this section.

SECTION __. Subsection (b), Section 15.102, Water Code, is amended to read as follows:

(b) The loan fund may also be used by the board to provide grants for:

(1) projects that include supplying water and wastewater services in economically distressed areas, including projects involving retail distribution of those services; and

(2) desalination, brush control, weather modification, regionalization, and projects providing regional water quality enhancement services as defined by board rule, including regional conveyance systems.

SECTION __. Subsections (4), (5) and (6), Section 15.434, Water Code, are amended to read as follows:

(4) grants made to groundwater [~~underground water~~] conservation districts and political subdivisions for the purchase of equipment under programs established by Subchapter H of this chapter;

(5) research in water utilization and conservation including artificial recharge and secondary recovery of groundwater [~~underground water~~];

(6) desalination [~~desalimization~~];

SECTION __. Section 11.32, Tax Code, is amended to read as follows:

Sec. 11.32. CERTAIN WATER CONSERVATION INITIATIVES. The governing body of a taxing unit by official action of the governing body adopted in the manner required by law for official actions may exempt from taxation part or all of the assessed value of property on which approved water conservation initiatives, desalination projects, or brush control initiatives have been implemented. For purposes of this section, approved water conservation, desalination, and brush control initiatives shall be designated pursuant to an ordinance or other law adopted by the governing unit.

SECTION __. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.355 to read as follows:

Sec. 151.355. WATER RELATED EXEMPTIONS. The following are exempted from taxes imposed by this chapter:

(1) rainwater harvesting equipment or supplies, water recycling and reuse equipment or supplies, or other equipment, services, or supplies used to reduce or eliminate water use;

(2) equipment, services, or supplies used for desalination of surface water or groundwater;

(3) equipment, services, or supplies used for brush control designed to enhance the availability of water;

(4) equipment, services, or supplies used for precipitation enhancement;

(5) equipment, services, or supplies used to construct or operate a water or wastewater system certified by the Texas Natural Resource Conservation Commission as a regional system; and

(6) equipment, services, or supplies used to construct or operate a water supply or wastewater system by a private entity as a public-private partnership, as certified by the political subdivision that is a party to the project.

Amendment No. 2 was adopted without objection.

SB 312, as amended, was passed.

SB 1689 ON THIRD READING
(Y. Davis - House Sponsor)

SB 1689, A bill to be entitled An Act relating to the franchise tax.

SB 1689 was passed.

SB 43 ON THIRD READING**(Gray, Coleman, Naishtat, Maxey, Keffer, et al. - House Sponsors)**

SB 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 and Wohlgemuth offered the following amendment to **SB 43**:

Amend **SB 43**, on third reading, by striking added Section 32.025(f)(2), Human Resources Code, as added by SECTION 2 of the bill, and substituting the following:

(2) the department may contract with hospital districts, hospitals, including state-owned teaching hospitals, federally qualified health centers, and county health departments to accept applications requesting medical assistance for a child under 19 years of age.

Amendment No. 1 was adopted without objection.

SB 43, as amended, was passed.

**MAJOR STATE CALENDAR
SENATE BILLS
SECOND READING**

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

**CSSB 2 ON SECOND READING
(R. Lewis - House Sponsor)**

CSSB 2, A bill to be entitled An Act relating to the development and management of the water resources of the state, including the ratification of the creation of certain groundwater conservation districts; providing penalties.

RECESS

The speaker stated that the house would recess until 2 p.m. today.

The house accordingly, at 12:24 p.m., recessed until 2 p.m. today.

AFTERNOON SESSION

The house met at 2 p.m. and was called to order by the speaker.

MESSAGE FROM THE SENATE

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

CSSB 2 - (pending business)**Amendment No. 1**

Representative Counts offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House committee printing) in SECTION 1.01 of the bill, proposed Section 9.012, Water Code (page 8, lines 22-25), by striking the first sentence of that proposed section.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative R. Lewis offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House committee printing) as follows:

(1) In SECTION 2.01 of the bill, in proposed Subdivision (11), Section 11.002, Water Code (page 10, lines 3 and 4), strike the last sentence and substitute "The term does not include waters originating in bays or arms of the Gulf of Mexico."

(2) In SECTION 2.29 of the bill, in proposed Subdivision (18), Section 36.001, Water Code (page 44, lines 21 through 23), strike the last sentence and substitute "The term does not include waters originating in bays or arms of the Gulf of Mexico."

(D. Jones in the chair)

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative B. Turner offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House committee printing) by striking SECTION 2.09. Section 11.142 (b) of the bill (page 16, lines 8 through 16) and renumbering the subsequent sections of the bill accordingly.

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2** as follows:

On Page 20, Line 20, strike "A person" and insert "An entity".

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2** by deleting the following sentence on page 20, lines 23 through 25, of the substitute in its entirety:

"A person who fails to complete and return the survey commits an offense that is punishable as a Class C misdemeanor."

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2** as follows:

Strike 36.001(19)(E) on Page 45, Line 12 in its entirety.

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Puente offered the following amendment to **CSSB 2**:

Amend **CSSB 2** by inserting the following new Section 36.001(23), Water Code, after line 27 on page 45 of the substitute to read as follows:

(23) "Public water supply well" means, for purposes of a district governed by this chapter, a well that produces the majority of its water for use by a public water system.

Amendment No. 7 was adopted without objection.

Amendment No. 8

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2**, on page 56 between lines 4 and 5, by adding the following text:

(d) If there is conflict between this section and Section 26.359, this section governs.

Amendment No. 8 was adopted without objection.

Amendment No. 9

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2** by inserting the following new Section 36.102(e), Water Code, between lines 20 and 21 on page 56 of the substitute to read as follows:

(e) The board shall not assess a penalty for breach of a district rule regulating the production of groundwater against a person for producing groundwater for the generation of electricity if such production is necessary to protect public safety and welfare, no reasonable alternative water supply is available to the producer for the generation of the electricity, and the rule or production regulation that was breached by the person was adopted or set by the board less than two years prior to the date of the rule violation."

Amendment No. 9 was adopted without objection.

Amendment No. 10

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2** as follows:

On Page 64, Lines 8 and 9, strike "provided that agriculture, municipal, and the natural resources are protected.".

Amendment No. 10 was adopted without objection.

Amendment No. 11

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2** as follows:

On Page 65, Line 3, after "site", insert ",per acre".

Amendment No. 11 was adopted without objection.

Amendment No. 12

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2** as follows:

On Page 65, Line 13, after "utility" insert ", if that utility may, either by statute or contract, prevent groundwater production by others within that utility's service area".

Amendment No. 12 was adopted without objection.

Amendment No. 13

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2** as follows:

Amend Section 2.51 on page 69, line 26

Strike "section" and replace with "chapter"

On page 70, line 2

Strike "section" and replace with "chapter"

Amendment No. 13 was adopted without objection.

Amendment No. 14

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2** as follows:

(1) On Page 72, Line 27, strike "of five years".

(2) On Page 72, Line 27, after "(i)" insert "(1)".

Amendment No. 14 was adopted without objection.

Amendment No. 15

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2** as follows:

(1) On Page 73, Line 1, strike "30 years" and insert "the terms agreed to under (i)(2)".

(2) On Page 73, Line 3, strike "five-year".

Amendment No. 15 was adopted without objection.

Amendment No. 16

Representative Walker offered the following amendment to **CSSB 2**:

CSSB 2 as follows:

On Page 74, Line 22, insert a new subsection (r) to read as follows:

(r) Subsections (b), (e)(2), (e)(3), (f) and (g) apply only to a transfer of water that is initiated or increased after March 2, 1997.

Amendment No. 16 was adopted without objection.

Amendment No. 17

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2** by inserting the following after the word "District" on page 75, line 18, of the substitute:

". the Lone Star Groundwater Conservation District."

Amendment No. 17 was adopted without objection.

Amendment No. 18

Representative Walker offered the following amendment to **CSSB 2**:

Amend **CSSB 2** as follows:

On Page 80, strike Line 16 in its entirety.

Amendment No. 18 was adopted without objection.

HR 1128 - ADOPTED (by Hill, Goolsby, and Madden)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 1128**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1128, In memory of Kate Sullivan of Richardson.

HR 1128 was read and was unanimously adopted by a rising vote.

CSSB 2 - (consideration continued)

Amendment No. 19

Representative Puente offered the following amendment to **CSSB 2**:

Amend **CSSB 2** in SECTION 2.60 of the bill (page 81, line 10) by striking "shall be based on the volume of water withdrawn and" and substituting "[~~shall be based on the volume of water withdrawn and~~]".

Amendment No. 19 was withdrawn.

Amendment No. 20

Representative Puente offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House committee printing) by striking SECTION 2.60 of the bill (page 81, lines 4 through 13) and renumbering subsequent SECTIONS of the bill accordingly.

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).

LEAVE OF ABSENCE GRANTED

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

Ehrhardt on motion of Hopson.

CSSB 2 - (consideration continued)

Amendment No. 20 was withdrawn.

Amendment No. 21

Representative Cook offered the following amendment to **CSSB 2**:

Amend **CSSB 2** in ARTICLE 2 of the bill (House committee printing, page 82, lines 14-20) by striking SECTION 2.62 and renumbering any subsequent SECTIONS accordingly.

(Speaker in the chair)

INTRODUCTION OF GUEST

The speaker recognized Representative Gallego, who introduced the Honorable Cruz M. Bustamante, lieutenant governor of California.

(D. Jones in the chair)

CSSB 2 - (consideration continued)

Representative R. Lewis moved to table Amendment No. 21.

The motion to table was lost.

(Ehrhardt now present)

Amendment No. 21 was adopted without objection.

Amendment No. 22

Representative R. Lewis offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House committee printing) as follows:

On page 82, after line 20, add a new SECTION 2.63.

SECTION 2.63. Amend Section 16.343, Water Code, by adding Subsection (h) to read as follows:

(h) Any change in the rules adopted under this section imposing on-site capital expenditure requirements shall apply to projects which were not platted and recorded before September 1, 1998.

Amendment No. 22 was withdrawn.

HR 916 - ADOPTED

(by E. Jones)

Representative E. Jones moved to suspend all necessary rules to take up and consider at this time **HR 916**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 916, Recognizing May 21, 2001, as Ferdinand Jacob Lindheimer Day in the State of Texas.

HR 916 was read and was adopted without objection.

CSSB 2 - (consideration continued)**Amendment No. 23**

Representative Green offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (Committee Printing), in ARTICLE 3 of the bill by striking PART 3 and substituting the following:

**PART 3. HAYS TRINITY GROUNDWATER
CONSERVATION DISTRICT**

SECTION 3.0301. RATIFICATION OF CREATION. The creation by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999 ((**SB 1911**)), of the Hays Trinity Groundwater Conservation District in Hays County is ratified as required by Section 15(a) of that Act, subject to approval at a confirmation election under Section 3.0309 of this part.

SECTION 3.0302. DEFINITION. In this part, "district" means the Hays Trinity Groundwater Conservation District.

SECTION 3.0303. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Hays County, Texas, excluding any area in Hays County that is, on the effective date of this Act, within another groundwater conservation district with authority to require a permit to drill or alter a well for the withdrawal of groundwater. Not later than the 30th day after the date of the first meeting of the board of directors of the district, and before a confirmation election is held, the board shall prepare and file a description of district boundaries with the Hays County clerk and the Texas Natural Resource Conservation Commission.

SECTION 3.0304. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This part prevails over any provision of general law that is in conflict or inconsistent with this part, including any provision of Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999 ((**SB 1911**)).

(b) Notwithstanding Subsection (a) of this section, the following provisions prevail over a conflicting or inconsistent provision of this part:

- (1) Sections 36.1071-36.108, Water Code;
- (2) Sections 36.159-36.161, Water Code; and
- (3) Subchapter I, Chapter 36, Water Code.

(c) The district may not enter property to inspect an exempt well without the property owner's permission.

(d) The Hays County Commissioners Court by resolution may require an election to affirm or reverse a decision of the board of directors of the district not later than six months after the date of the decision.

(e) The district may not adopt standards for the construction of a residential well that are more stringent than state standards for a residential well.

SECTION 3.0305. EXEMPT WELLS. (a) The following wells are exempt from the requirements of Chapter 36, Water Code, and may not be regulated, permitted, or metered by the district:

(1) a well used for domestic use by a single private residential household and producing less than 25,000 gallons per day; and

(2) a well used for conventional farming and ranching activities, including such intensive operations as aquaculture, livestock feedlots, or poultry operations.

(b) The district may not require a permit to construct a well described by Subsection (a)(2) of this section.

(c) A well used for dewatering and monitoring in the production of coal or lignite is exempt from permit requirements, regulations, and fees imposed by the district.

SECTION 3.0306. FISCAL RESPONSIBILITIES. (a) The district annually shall prepare a budget showing proposed expenditures and disbursements and estimated receipts and collections for the next fiscal year and shall hold a public hearing on the proposed budget. The district must publish notice of the hearing at least once in a newspaper of general circulation in the county not later than the 10th day before the date of the hearing. A taxpayer of the district is entitled to appear at the hearing to be heard regarding any item in the proposed budget.

(b) At the written request of the Hays County Commissioners Court, the county auditor shall audit the performance of the district. The court may request a general audit of the performance of the district or may request an audit of only one or more district matters.

SECTION 3.0307. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 3.0309 of this part.

(c) Initial directors serve until permanent directors are elected under Section 3.0310 of this part.

(d) Permanent directors serve staggered two-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

(g) If there is a vacancy on the board, the Hays County Commissioners Court shall appoint a director to serve the remainder of the term.

(h) A director may not receive a salary or other compensation for service as a director but may be reimbursed for actual expenses of attending meetings at the rate in effect for employees of Hays County.

SECTION 3.0308. METHOD OF ELECTING DIRECTORS: SINGLE-MEMBER DISTRICTS. (a) The temporary directors shall draw five numbered, single-member districts for electing directors.

(b) For the conduct of an election under Section 3.0309 or Section 3.0310 of this part, the board shall provide for one director to be elected from each of the single-member districts. A director elected from a single-member district represents the residents of that single-member district.

(c) To be qualified to be a candidate for or to serve as director, a person must be a registered voter in the single-member district that the person represents or seeks to represent.

(d) The initial or permanent directors may revise the districts as necessary or appropriate. The board of directors shall revise each single-member district after each federal decennial census to reflect population changes. At the first election after the single-member districts are revised, a new director shall be elected from each district. The directors shall draw lots to determine which two directors serve one-year terms and which three directors serve two-year terms.

SECTION 3.0309. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect initial directors.

(b) At the confirmation and initial directors' election, the temporary board of directors shall have placed on the ballot the name of any candidate filing for an initial director's position and blank spaces to write in the names of other persons. A temporary director who is qualified to be a candidate under Section 3.0308 of this part may file for an initial director's position.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

SECTION 3.0310. ELECTION OF DIRECTORS. (a) On the first Saturday in May or the first Tuesday after the first Monday in November of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of three directors to serve two-year terms and two directors to serve one-year terms.

(b) On the first Saturday in May or the first Tuesday after the first Monday in November, as applicable, of each subsequent second year following the election held under Subsection (a) of this section, the appropriate number of directors shall be elected.

SECTION 3.0311. OTHER ELECTIONS. An election held by the district, other than an election under Section 3.0309 or 3.0310 of this part, must be scheduled to coincide with a general election in May or November.

SECTION 3.0312. FUNDING AUTHORITY. (a) Except as provided by Sections 3.0305(b) and (c) of this part, the district may require a permit for the construction of a new well completed after the effective date of this Act and may charge and collect a construction permit fee not to exceed \$300.

(b) The district may levy and collect a water utility service connection fee not to exceed \$300 for each new water service connection made after the effective date of this Act. This subsection does not apply to a water utility that has surface water as its sole source of water.

(c) Notwithstanding Section 3.0304(a) of this part or Subchapter G, Chapter 36, Water Code, the district may not impose a tax or assess or collect any fees except as authorized by Subsection (a) or (b) of this section.

SECTION 3.0313. EXPIRATION DATE. If the creation of the district is not confirmed at a confirmation election held under Section 3.0309 of this part before September 1, 2003, this part expires on that date.

Amendment No. 23 was adopted without objection.

Amendment No. 24

On behalf of Representative Gallego, Representative Puente offered the following amendment to **CSSB 2**:

Amend **CSSB 2** as follows and renumber the subsequent section accordingly:

(1) Strike Article 3, Part 7 (Page 112, line 8 through Page 116, line 8).

Amendment No. 24 was adopted without objection.

Amendment No. 25

Representative T. King offered the following amendment to **CSSB 2**:

Amend **CSSB 2** as follows:

- (1) Beginning on page 172 line 10 strike ARTICLE 6 in its entirety.
- (2) Renumber the subsequent sections appropriately.

Representative Puente moved to table Amendment No. 25.

The motion to table prevailed.

Amendment No. 26

Representative Puente offered the following amendment to **CSSB 2**:

Amend **CSSB 2** in SECTION 7.01 of the bill, in added Subsection (b), Section 26.050, Water Code, (Committee printing, page 175, line 6) by adding immediately before the period at the end of the subsection the following: "unless the damages are proximately caused by negligence or intentional conduct"

Amendment No. 26 was adopted without objection.

Amendment No. 27

Representative R. Lewis offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House committee printing) as follows:

On page 179, after line 20, add new subsection (f) as follows:

(f) If any changes made by this Act to Chapter 36, Water Code, conflict with changes made to Chapter 36, Water Code, by any other Act passed this legislative session, this Act shall prevail.

Amendment No. 27 was adopted without objection.

Amendment No. 28

Representatives Craddick and Hunter offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House Committee Printing) as follows:

(1) In SECTION 9.02 of the bill (House Committee Printing, page 178, lines 12-13) strike "35.005, 35.006, and 36.121" and substitute "35.005 and 35.006".

(2) Add the following appropriately numbered ARTICLE and SECTION to the bill and renumber subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE __. MISCELLANEOUS PROVISIONS

SECTION __. Section 36.121, Water Code, is amended to read as follows:

Sec. 36.121. LIMITATION ON RULEMAKING POWER OF DISTRICTS OVER WELLS IN CERTAIN COUNTIES. Except as provided by Section 36.117, a district that is created under this chapter on or after September 1, 1991, shall exempt from regulation under this chapter a well and any water produced or to be produced by a well that is located in a county that has a population of 14,000 or less if the water is to be used solely to supply a municipality that has a population of 120,000 [115,000] or less and the rights

to the water produced from the well are owned by a political subdivision that is not a municipality, or by a municipality that has a population of 100,000 [93,000] or less, and that purchased, owned, or held rights to the water before the date on which the district was created, regardless of the date the well is drilled or the water is produced. The district may not prohibit the political subdivision or municipality from transporting produced water inside or outside the district's boundaries.

Representative Walker moved to table Amendment No. 28.

The motion to table prevailed.

Amendment No. 26 - Vote Reconsidered

Representative Puente moved to reconsider the vote by which Amendment No. 26 was adopted.

The motion to reconsider prevailed.

Amendment No. 26 was withdrawn.

Amendment No. 29

Representative Puente offered the following amendment to **CSSB 2**:

Amend **CSSB 2** as follows:

Strike Article 7 of the bill. Renumber accordingly.

Representative Ellis moved to table Amendment No. 29.

The motion to table prevailed.

HR 890 - ADOPTED
(by Hodge)

Representative Hodge moved to suspend all necessary rules to take up and consider at this time **HR 890**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 890, Congratulating Yulia Alexandrovna Polansky of Austin on her high school graduation.

HR 890 was read and was adopted without objection.

On motion of Representative Dukes, the names of all the members of the house were added to **HR 890** as signers thereof.

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).

CSSB 2 - (consideration continued)

Amendment No. 30

Representatives Craddick and Hunter offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House Committee Printing) as follows:

(1) In SECTION 9.02 of the bill (House Committee Printing, page 178, lines 12-13) strike "35.005, 35.006, and 36.121" and substitute "35.005 and 35.006".

(2) Add the following appropriately numbered ARTICLE and SECTION to the bill and renumber subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE __. MISCELLANEOUS PROVISIONS

SECTION __. Section 36.121, Water Code, is amended to read as follows:

Sec. 36.121. LIMITATION ON RULEMAKING POWER OF DISTRICTS OVER WELLS IN CERTAIN COUNTIES. Except as provided by Section 36.117, a district that is created under this chapter on or after September 1, 1991, shall exempt from regulation under this chapter a well and any water produced or to be produced by a well that is located in a county that has a population of 14,000 or less if the water is to be used solely to supply a municipality that has a population of 121,000 [~~115,000~~] or less and the rights to the water produced from the well are owned by a political subdivision that is not a municipality, or by a municipality that has a population of 100,000 [~~93,000~~] or less, and that purchased, owned, or held rights to the water before the date on which the district was created, regardless of the date the well is drilled or the water is produced. The district may not prohibit the political subdivision or municipality from transporting produced water inside or outside the district's boundaries.

Representative Walker moved to table Amendment No. 30.

A record vote was requested.

The motion to table was lost by (Record 495): 53 Yeas, 91 Nays, 2 Present, not voting.

Yeas — Bosse; Burnam; Chisum; Coleman; Cook; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Ehrhardt; Eiland; Farrar; Gallego; Garcia; Geren; Glaze; Haggerty; Hardcastle; Hochberg; Hopson; Jones, J.; King, T.; Kitchen; Kolkhorst; Longoria; Maxey; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Najera; Puente; Rangel; Raymond; Reyna, A.; Ritter; Sadler; Smith; Smithee; Solis; Swinford; Telford; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Wilson.

Nays — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Callegari; Capelo; Carter; Chavez; Christian; Clark; Corte; Counts; Crabb; Craddick; Danburg; Davis, J.; Delisi; Denny; Driver; Edwards; Elkins; Ellis; Farabee; Flores; George; Giddings; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, E.; Junell; Keel; Keffer; King, P.; Krusee; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Marchant; Martinez Fischer; McCall; McReynolds; Merritt; Miller; Morrison; Mowery; Nixon; Olivo; Pickett; Pitts; Ramsay; Reyna, E.; Salinas; Seaman; Shields; Solomons; Talton; Thompson; West; Williams; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

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

Absent, Excused — Hilbert; Oliveira.

Absent — Crownover; Noriega.

STATEMENT OF VOTE

I was shown voting yes on Record No. 495. I intended to vote no.

Dunnam

Amendment No. 30 was adopted without objection.

Amendment No. 31

Representative Bosse offered the following amendment to **CSSB 2**:

Amend **CSSB 2** on Page 175, Line 3 by striking "for all types for" and substituting "for each occurrence of"

Amendment No. 31 was adopted without objection.

Amendment No. 32

Representative Counts offered the following amendment to **CSSB 2**:

Amend **CSSB 2** by adding a new appropriately numbered SECTION to read as follows:

SECTION __. Section 4.06(a), Chapter 1029, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

(a) The authority may:

(1) acquire and provide by purchase, gift, [or] lease, contract, or any other legal means, a water treatment or supply system, or any other works, plants, improvements, or facilities necessary or convenient to accomplish the purposes of the authority, or any interest in those assets, inside of or outside of the authority's boundaries;

(2) design, finance, or construct a water treatment or supply system, or any other supply systems, or any other works, plants, improvements, or facilities necessary or convenient to accomplish the purposes of the authority, and provide water services inside of or outside of the authority's boundaries;

(3) maintain, operate, lease, or sell a water treatment or supply system, or any other works, plants, improvements, or facilities necessary or convenient to accomplish the purposes of the authority, that the authority constructs or acquires inside of or outside of the authority's boundaries; and

(4) contract with any person to operate or maintain a water treatment or supply system the person owns.

Amendment No. 32 was adopted without objection.

Amendment No. 33

Representative Elkins offered the following amendment to **CSSB 2**:

Amend **CSSB 2** by adding the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES and SECTIONS accordingly:

ARTICLE ____ . NORTH HARRIS COUNTY REGIONAL
WATER AUTHORITY

SECTION ____ . Section 1.03, Chapter 1029, Acts of the 76th Legislature, Regular Session, 1999, is amended by adding Subsections (e) and (f) to read as follows:

(e) The governing body of the city of Jersey Village may call a special election before December 31, 2001, to allow the voters of the city to determine whether the area that on September 1, 2001, was inside the municipal limits of the city should be excluded from the authority's territory. If a majority of the voters voting at that election vote to exclude that area from the authority's territory, then, notwithstanding Subsections (a) and (b) of this section, that area is excluded.

(f) If the territory of the city is excluded under Subsection (e) of this section, the city may not petition to rejoin the authority for a period of five years. If the city petitions to rejoin the authority after the five year period of ineligibility expires, the authority may require the city to pay:

(1) the amount the city would have paid had the territory of the city remained within the authority, plus interest; and

(2) any additional costs determined by the authority's board to be equitable in light of the costs incurred by other districts and entities within the authority to support the expenses of the authority and establish a groundwater protection plan and provide alternative water supplies, including a pro rata share of any debt service or principal payments made by the authority.

Amendment No. 33 was adopted without objection.

Amendment No. 34

Representative Counts offered the following amendment to **CSSB 2**:

Amend **CSSB 2** by adding the following article, numbered appropriately, and renumbering subsequent articles and sections accordingly:

ARTICLE ____ . WATER UTILITY SYSTEMS

SECTION ____ . Section 13.137, Water Code, is amended to read as follows:

Sec. 13.137. OFFICE AND OTHER BUSINESS LOCATIONS OF UTILITY; RECORDS; REMOVAL FROM STATE. (a) Every utility shall:

(1) make available and notify its customers of a business location where its customers may make payments to prevent disconnection of or to restore service:

(A) in each county in which the utility provides service; or

(B) not more than 20 miles from the residence of any residential customer if there is no location to receive payments in the county; and

(2) have an office in a county of this state or in the immediate area in which its property or some part of its property is located in which it shall keep all books, accounts, records, and memoranda required by the commission to be kept in this state.

(b) The commission by rule may provide for waiving the requirements of Subsection (a)(1) for a utility for which meeting those requirements would cause a rate increase or otherwise harm or inconvenience customers. The rules

must provide for an additional 14 days to be given for a customer to pay before a utility that is granted a waiver may disconnect service for late payment.

(c) Books, accounts, records, or memoranda required by the regulatory authority to be kept in the state may not be removed from the state, except on conditions prescribed by the commission.

SECTION _____. Section 13.144, Water Code, is amended to read as follows:

Sec. 13.144. NOTICE OF WHOLESALE WATER SUPPLY CONTRACT. A district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a retail public utility, a wholesale water service, or other person providing a retail public utility with a wholesale water supply shall provide the commission with a certified copy of any wholesale water supply contract with a retail public utility within 30 days after the date of the execution of the contract. The submission must include the amount of water being supplied, term of the contract, consideration being given for the water, purpose of use, location of use, source of supply, point of delivery, limitations on the reuse of water, a disclosure of any affiliated interest between the parties to the contract, and any other condition or agreement relating to the contract.

SECTION _____. Subchapter E, Chapter 13, Water Code, is amended by adding Section 13.145 to read as follows:

Sec. 13.145. MULTIPLE SYSTEMS CONSOLIDATED UNDER TARIFF. A utility may consolidate more than one system under a single tariff only if:

(1) the systems under the tariff are substantially similar in terms of facilities, quality of service, and cost of service; and

(2) the tariff provides for rates that promote water conservation for single-family residences and landscape irrigation.

SECTION _____. Section 13.182, Water Code, is amended to read as follows:

Sec. 13.182. JUST AND REASONABLE RATES. (a) The regulatory authority shall ensure that every rate made, demanded, or received by any utility or by any two or more utilities jointly shall be just and reasonable.

(b) Rates shall not be unreasonably preferential, prejudicial, or discriminatory but shall be sufficient, equitable, and consistent in application to each class of consumers.

(c) For ratemaking purposes, the commission may treat two or more municipalities served by a utility as a single class wherever the commission considers that treatment to be appropriate.

(d) The commission by rule shall establish a preference that rates under a consolidated tariff be consolidated by region. The regions under consolidated tariffs must be determined on a case-by-case basis.

SECTION _____. Section 13.183, Water Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) To ensure that retail customers receive a higher quality, more affordable, or more reliable water or sewer service, to encourage regionalization, or to maintain financially stable and technically sound utilities, the regulatory authority, by rule or ordinance, as appropriate, may adopt specific alternative ratemaking [may develop] methodologies for water or sewer rates

based on factors other than rate of return and those specified in Section 13.185. Overall revenues determined according [~~pursuant~~] to an alternative ratemaking [~~alternate~~] methodology adopted [~~developed~~] under this section must provide revenues to the utility that satisfy the requirements of Subsection (a). The regulatory authority may not approve rates under an alternative ratemaking methodology unless the regulatory authority adopts the methodology before the date the rate application was administratively complete.

(d) A regulatory authority other than the commission may not approve an acquisition adjustment for a system purchased before the effective date of an ordinance authorizing acquisition adjustments.

(e) In determining to use an alternative ratemaking methodology [~~alternate ratemaking methodologies~~], the regulatory authority shall assure that rates, operations, and services are just and reasonable to the consumers and to the utilities.

SECTION _____. Section 13.187, Water Code, is amended to read as follows:

Sec. 13.187. STATEMENT OF INTENT TO CHANGE RATES; HEARING; DETERMINATION OF RATE LEVEL. (a) A utility may not make changes in its rates except by delivering a statement of intent to each ratepayer and with the regulatory authority having original jurisdiction at least 60 [~~30~~] days before the effective date of the proposed change. The effective date of the new rates must be the first day of a billing period, and the new rates may not apply to service received before the effective date of the new rates. The statement of intent must include:

(1) the information required by the regulatory authority's rules;

(2) a billing comparison regarding the existing water rate and the new water rate computed for the use of:

(A) 10,000 gallons of water; and

(B) 30,000 gallons of water; and

(3) a billing comparison regarding the existing sewer rate and the new sewer rate computed for the use of 10,000 gallons, unless the utility proposes a flat rate for sewer services.

(b) A copy of the statement of intent shall be mailed or delivered to the appropriate offices of each affected municipality, and to any other affected persons as required by the regulatory authority's rules.

(c) When the statement of intent is delivered, the utility shall file with the regulatory authority an application to change rates. The application must include information the regulatory authority requires by rule. If the utility fails to provide within a reasonable time after the application is filed the necessary documentation or other evidence that supports the costs and expenses that are shown in the application, the regulatory authority may disallow the nonsupported expenses.

(d) If the application or the statement of intent is not substantially complete or does not comply with the regulatory authority's rules, it may be rejected and the effective date of the rate change may be suspended until a properly completed application is accepted by the regulatory authority and a proper statement of intent is provided. The commission may also suspend the effective date of any rate change if the utility does not have a certificate of public

convenience and necessity or a completed application for a certificate or to transfer a certificate pending before the commission or if the utility is delinquent in paying the assessment and any applicable penalties or interest required by Section 5.235(n) of this code.

(e) ~~[(b)]~~ If, ~~before the 91st day~~ ~~[within 60 days]~~ after the effective date of the rate change, the regulatory authority receives a complaint from any affected municipality, or from the lesser of 1,000 or 10 percent of the ratepayers of the utility over whose rates the regulatory authority has original jurisdiction, the regulatory authority shall set the matter for hearing.

(f) The regulatory authority may set the matter for hearing on its own motion at any time within 120 days after the effective date of the rate change. If more than half of the ratepayers of the utility receive service in a county with a population of more than 2.5 million, the hearing must be held at a location in that county.

(g) The hearing may be informal.

(h) If, after hearing, the regulatory authority finds the rates currently being charged or those proposed to be charged are unreasonable or in violation of law, the regulatory authority shall determine the rates to be charged by the utility and shall fix the rates by order served on the utility.

(i) ~~[(c)]~~ The regulatory authority, pending final action in a rate proceeding, may order the utility to deposit all or part of the rate increase received or to be received into an escrow account with a financial institution approved by the regulatory authority. Unless otherwise agreed to by the parties to the rate proceeding, the utility shall refund or credit against future bills all sums collected during the pendency of the rate proceeding in excess of the rate finally ordered plus interest as determined by the regulatory authority.

(j) For good cause shown, the regulatory authority may authorize the release of funds to the utility from the escrow account during the pendency of the proceeding.

(k) If the regulatory authority receives at least the number of complaints from ratepayers required for the regulatory authority to set a hearing under Subsection (e), the regulatory authority may, pending the hearing and a decision, suspend the date the rate change would otherwise be effective. The proposed rate may not be suspended for longer than:

(1) 90 days by a local regulatory authority; or

(2) 150 days by the commission.

(l) At any time during the pendency of the rate proceeding the regulatory authority may fix interim rates to remain in effect until a final determination is made on the proposed rate.

(m) If the regulatory authority sets a final rate that is higher than the interim rate, the utility shall be allowed to collect the difference between the interim rate and final rate unless otherwise agreed to by the parties to the rate proceeding.

(n) For good cause shown, the regulatory authority may at any time during the proceeding require the utility to refund money collected under a proposed rate before the rate was suspended or an interim rate was established to the extent the proposed rate exceeds the existing rate or the interim rate.

(o) If a ~~the~~ regulatory authority other than the commission establishes

interim rates or an escrow account, the regulatory authority must make a final determination on the rates not later than the first anniversary of ~~[within 335 days after]~~ the effective date of the interim rates or escrowed rates or the rates are automatically approved as requested by the utility.

(p) ~~(4)~~ Except to implement a rate adjustment provision approved by the regulatory authority by rule or ordinance, as applicable, or to adjust the rates of a newly acquired utility system, a utility or two or more utilities under common control and ownership may not file a statement of intent to increase its rates more than once in a 12-month period, unless the regulatory authority determines that a financial hardship exists. If the regulatory authority requires the utility to deliver a corrected statement of intent, the utility is not considered to be in violation of the 12-month filing requirement.

SECTION _____. Subchapter I, Chapter 13, Water Code, is amended by adding Section 13.343 to read as follows:

Sec. 13.343. WHOLESAL WATER CONTRACTS BETWEEN CERTAIN AFFILIATES. (a) The owner of a utility that supplies retail water service may not contract to purchase from an affiliated supplier wholesale water service for any of that owner's systems unless:

(1) the wholesale service is provided for not more than 90 days to remedy an emergency condition, as defined by commission rule; or

(2) the executive director determines that the utility cannot obtain wholesale water service from another source at a lower cost than from the affiliate.

(b) The utility may not purchase groundwater from any provider if:

(1) the source of the groundwater is located in a priority groundwater management area; and

(2) a wholesale supply of surface water is available.

SECTION _____. (a) The changes in law made by this Act to Chapter 13, Water Code, apply to a proceeding in which the Texas Natural Resource Conservation Commission has not issued a final order before the effective date of this Act.

(b) Section 13.343, Water Code, as added by this Act, does not apply to a contract executed before the effective date of this Act. A contract executed before the effective date of this Act is governed by the law in effect on the date it was executed, and that law is continued in effect for that purpose.

Amendment No. 34 was adopted without objection.

Amendment No. 35

Representative Kuempel offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House Committee Printing) by adding the following appropriately numbered section:

SECTION _____. Amend Section 26.177, Water Code, by adding Subsection (h) to read as follows:

(h) Property subject to a permit or plat in the extraterritorial jurisdiction of a municipality may not be subjected to new or additional water pollution regulations if the property is transferred to another municipality's extraterritorial jurisdiction, and all provisions of Chapter 245 Local Government Code, shall apply to the property.

Amendment No. 35 was adopted without objection.

Amendment No. 36

Representative Puente offered the following amendment to **CSSB 2**:

Amend **CSSB 2** by adding a new SECTION ___ to read as follows and renumbering subsequent SECTIONS appropriately:

SECTION ____. Section 26.359, Water Code, is amended to read as follows:

Sec. 26.359. LOCAL REGULATION OR ORDINANCE. (a) In this section, "local government" means a school district, county, municipality, junior college district, river authority, water district or other special district, or other political subdivision created under the constitution or a statute of this state.

(b) ~~A [This subchapter establishes a unified statewide program for underground and surface water protection, and any local] regulation or ordinance adopted by a local government that imposes standards [is effective only to the extent the regulation or ordinance does not conflict with the standards adopted] for the design, construction, installation, or operation of underground storage tanks is not valid [under this subchapter].~~

(c) This section does not apply to a rule adopted by the Edwards Aquifer Authority, or to a regulation or ordinance in effect as of January 1, 2001, or thereafter amended.

Amendment No. 36 was adopted without objection.

Amendment No. 37

Representative Counts offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House committee printing) by adding appropriately numbered new SECTIONS to the bill to read as follows and appropriately renumbering subsequent SECTIONS of the bill:

SECTION ____. Section 1.44, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Subsection (e) to read as follows:

(e) The authority may contract for injection or artificial recharge under this section only if provision is made for protecting and maintaining the quality of groundwater in the receiving part of the aquifer, and:

(1) the water used for artificial recharge is groundwater withdrawn from the aquifer; or

(2) the water is recharged through a natural recharge feature.

SECTION ____. Section 27.051, Water Code, is amended by adding Subsection (h) to read as follows:

(h) The commission may not authorize by rule or permit an injection well that transects or terminates in the Edwards Aquifer. The commission by rule may authorize injection of groundwater withdrawn from the Edwards Aquifer, or injections of storm water, flood water, or groundwater through improved sinkholes or caves located in karst topographic areas. For purposes of this subsection, "Edwards Aquifer" has the meaning assigned by Section 26.046(a).

SECTION ____. The change in law made by Section 27.051(h), Water Code, as added by this Act, applies only to an application for a permit that is filed with the Texas Natural Resource Conservation Commission on or after September 1, 2001.

Amendment No. 37 was adopted without objection.

Amendment No. 38

Representative B. Turner offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House committee printing) by adding the following appropriately numbered new SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 251.001, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) The power of eminent domain granted by this section may not be used to condemn land solely for the purpose of acquiring rights to groundwater.

Amendment No. 38 was withdrawn.

Amendment No. 39

Representative B. Turner offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House committee printing) by adding the following appropriately numbered new SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subchapter C, Chapter 21, Property Code, is amended by adding Section 21.0421 to read as follows:

Sec. 21.0421. ASSESSMENT OF DAMAGES: GROUNDWATER RIGHTS. (a) In a condemnation proceeding initiated by a municipality under this chapter, the special commissioners or court shall admit evidence relating to the market value of groundwater rights as property apart from the land in addition to the local market value of the real property if:

(1) the municipality proposes to condemn the fee title of real property;
and

(2) the special commissioners or court finds, based on evidence submitted at the hearing, that the real property may be used by the municipality to develop or use the rights to groundwater for a public purpose.

(b) The evidence submitted under Subsection (a) on the market value of the groundwater rights as property apart from the land shall be based on generally accepted appraisal methods and techniques, including the methods of appraisal under Subchapter A, Chapter 23, Tax Code.

(c) If the special commissioners or court finds that the right to groundwater may be developed or used for municipal purposes, the special commissioners or court may assess damages to the property owner based on:

(1) the local market value of the real property, excluding the value of the groundwater in place, at the time of the hearing; and

(2) the market value of the groundwater rights as property apart from the land at the time of the hearing.

(d) This section does not:

(1) authorize groundwater rights appraised separately from the real property under this section to be appraised separately from real property for property tax appraisal purposes; or

(2) subject real property condemned for the purpose described by Subsection (a) to an additional tax as provided by Section 23.46 or 23.55, Tax Code.

(b) The change in law made by Section 21.0421, Property Code, as

added by this section, does not affect any litigation pending on September 1, 2001, that relates to the assessment of damages in a condemnation proceeding under Chapter 21, Property Code.

Representative Counts moved to table Amendment No. 39.

The motion to table prevailed.

Amendment No. 40

Representative Thompson offered the following amendment to **CSSB 2**:

Amend **CSSB 2** by adding the following ARTICLE, with the article and section appropriately numbered, and renumbering the subsequent articles and sections accordingly:

ARTICLE __. COUNTY WATER AND SEWER SYSTEMS

SECTION __. Section 412.016, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) Without further authorization, a county may contract with a nonprofit corporation, including a corporation operating under Chapter 67, Water Code, to acquire, own, or operate a water or sewer utility system and may levy ad valorem taxes to pay the corporation under the contract.

Amendment No. 40 was adopted without objection.

Amendment No. 41

Representative Dunnam offered the following amendment to **CSSB 2**:

Amend **CSSB 2** (House committee printing) in ARTICLE 7 of the bill, SECTION 7.01, at the end of proposed Section 26.050, Water Code (page 175, between lines 16 and 17) by adding Subsection (d) to read as follows:

(d) The limited liability provided by this section does not apply to a commercially licensed aquatic herbicide applicator if the applicator uses the wrong chemical, fails to follow directions for the application of the aquatic herbicide, or applies the aquatic herbicide in a manner that violates federal or state law.

Amendment No. 41 was adopted without objection.

Amendment No. 42

Representative S. Turner offered the following amendment to **CSSB 2**:

Amend **CSSB 2** by adding the following ARTICLE, appropriately numbered, and renumbering the subsequent articles and section accordingly:

ARTICLE __. REVOCATION OF CERTIFICATE OF RETAIL PUBLIC UTILITY

SECTION __. Subchapter G, Chapter 13, Water Code, is amended by adding Section 13.2541 to read as follows:

Sec. 13.2541. REVOCATION OF CERTIFICATE WHEN SERVICE PROVIDED TO A MUNICIPALITY. (a) This section applies only to a municipality with a population of more than 1.9 million.

(b) On request of a municipality served by a retail public utility, the commission at any time after notice and hearing may revoke the retail public utility's certificate of public convenience and necessity if it finds that the retail public utility:

(1) has never provided, is no longer providing, or has failed to provide continuous and adequate service in the municipality requesting the revocation; or

(2) has been grossly or continuously mismanaged or has grossly or continuously not complied with this chapter, commission rules, or commission orders.

(c) If the certificate of a retail public utility is revoked under Subsection (b), the municipality that requested the revocation shall operate the decertified retail public utility for an interim period prescribed by commission rule and shall request commission approval to acquire the decertified retail public utility's facilities and to transfer the decertified retail public utility's certificate of convenience and necessity to the municipality. The municipality must apply in accordance with Subchapter H.

(d) The compensation paid to the decertified retail public utility for its facilities shall be determined by a qualified individual or firm serving as independent appraiser agreed upon by the decertified retail public utility and the municipality. The determination of compensation by the independent appraiser shall be binding on the commission. The municipality shall pay the costs of the independent appraiser. For the purpose of implementing this section, the value of real property shall be determined according to the standards prescribed by Chapter 21, Property Code, governing actions in eminent domain.

(e) The commission shall determine whether the municipality shall pay the compensation in a lump sum or over a specified period.

(Speaker in the chair)

Amendment No. 43

Representative R. Lewis offered the following amendment to Amendment No. 42:

Amend the S. Turner amendment to **CSSB 2** as follows:
Strike line 9 of page 1 and substitute a period.

Amendment No. 43 was adopted without objection.

Amendment No. 42, as amended, was adopted without objection.

Amendment No. 44

Representative Christian offered the following amendment to **CSSB 2**:

Amend **CSSB 2** on second reading by adding article 10 as follows:
SECTION 1. Chapter 11, Water Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. RESTRICTIONS ON TRANSFER OF GROUNDWATER

Sec. 11.551. NONAPPLICABILITY OF SUBCHAPTER. This subchapter does not apply to a transfer of groundwater from:

(1) a groundwater conservation district; or

(2) a county with a population of more the 50,000.

Sec. 11.552. PERMIT REQUIRED. (a) A person must obtain a permit from the commission before:

(1) Increasing, on or after September 1, 2001, the amount of groundwater to be transferred from a county in this state to another county under a continuing arrangement in effect before that date; or

(2) transferring groundwater from a county in this state to another county on or after September 1, 2001, under a new arrangement.

(b) An application for a permit under this section must include information regarding the number and types of users of groundwater from the aquifer from which the groundwater is proposed to be transferred.

(c) The commission may impose a reasonable fee for processing an application for a permit under this section.

Sec. 11.553. NOTICE AND HEARING. (a) Before determining whether to issue a permit under this section, the commission must mail notice of the application to:

(1) each water supply system that uses groundwater from the aquifer from which the groundwater is proposed to be transferred;

(2) the commissioners court of the county from which the groundwater is proposed to be transferred;

(3) each mayor of a municipality with a population of 1,000 or more located in the county from which the groundwater is proposed to be transferred;

(4) each groundwater conservation district whose jurisdiction includes any part of the aquifer from which the ground water is proposed to be transferred; and

(5) each state legislator whose district is located in whole or in part in:

(A) the county from which the groundwater is proposed to be transferred; or

(B) the county to which the groundwater is proposed to be transferred.

(b) The applicant must publish notice of the application once a week for two consecutive weeks in a newspaper of general circulation in the county from which the groundwater is proposed to be transferred and in the county to which the groundwater is proposed to be transferred. The published notice may not be smaller than 96.8 square centimeters or 15 square inches, with the shortest dimension being at least 7.6 centimeters or three inches.

(c) The applicant shall pay the cost of mailing the notice. The commission by rule may establish procedures for payment of the cost.

(d) If the application is contested in a manner requiring an evidentiary hearing under the rules of the commission, the commission must give notice and hold an evidentiary hearing, in accordance with commission rules and applicable state law.

Sec. 11.554. CONSIDERATIONS IN DETERMINING WHETHER TO ISSUE PERMIT. In determining whether to issue a permit under this section, the commission shall consider:

(1) the availability of water in the county from which the groundwater is proposed to be transferred and in the proposed receiving area during the period for which the water supply is requested;

(2) the availability of feasible and practicable alternative supplies to the applicant;

(3) the purposes for which the proposed receiving area will use the water and the amount of water that will be used for each purpose;

(4) the projected effect of the proposed transfer on:

(A) aquifer conditions;

(B) groundwater depletion;

(C) subsidence; and

(D) groundwater users within the county from which the groundwater is proposed to be transferred; and

(5) the approved regional water plan for the regional water planning area that includes the county from which the groundwater is proposed to be transferred.

Sec. 11.555. LOCAL APPROVAL OF PERMIT ISSUANCE. (a) If the commission decides to issue a permit, the commission must mail, by certified mail in the manner provided by commission rules, written notice of its intent to issue the permit to:

(1) the water supply system that uses groundwater from the aquifer from which the groundwater is proposed to be transferred if the system is the only user of that groundwater; or

(2) if Subdivision (1) does not apply, the commissioners court of the county from which the groundwater is proposed to be transferred.

(b) The governing body of the water supply system or the commissioners court of the county, as applicable, may notify the commission in writing whether the governing body or commissioners court and approves the issuance of the permit.

Sec. 11.556. ISSUANCE OF PERMIT. (a) The commission may issue a permit only if:

(1) the commission receives notice under Section 11.555(b) that the governing body of the water supply system or the commissioners court of the county, as applicable, approves the issuance of the permit; or

(2) the commission does not receive notice under Section 11.555(b) within 30 days after the date the commission mails notice of its intent to issue the permit under Section 11.555(a).

(b) The permit shall specify:

(1) the amount of groundwater that may be transferred from the county; and

(2) the period for which the groundwater may be transferred.

Sec. 11.557. RULES. The commission shall adopt rules as necessary to implement this section.

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

(D. Jones in the chair)

Amendment No. 44 was withdrawn.

CSSB 2, as amended, was passed to third reading.

POSTPONED BUSINESS

The following bill was laid before the house as postponed business:

SB 1590 ON SECOND READING
(Naishtat - House Sponsor)

SB 1590, A bill to be entitled An Act relating to the admissibility of evidence relating to certain Texas Department of Human Services investigations or surveys in certain actions or proceedings.

SB 1590 was read second time on May 17 and was postponed until this time.

Representative Naishtat moved to postpone consideration of **SB 1590** until 2 p.m. tomorrow.

The motion prevailed without objection.

MAJOR STATE CALENDAR
(consideration continued)

CSSB 5 ON SECOND READING
(Wolens - House Sponsor)

CSSB 5, A bill to be entitled An Act relating to the Texas emissions reduction plan; providing a penalty.

LEAVE OF ABSENCE GRANTED

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

E. Jones on motion of Ellis.

CSSB 5 - (consideration continued)

Amendment No. 1

Representative Wolens offered the following amendment to **CSSB 5**:

Amend **CSSB 5** (house committee printing) as follows:

(1) In Subsection (b), Section 1 of the bill, proposed Subdivision (4), Section 386.101, Health and Safety Code, strike "or an implement of husbandry that is used exclusively for agricultural purposes" (page 14, lines 6-8).

(2) In Subsection (b), Section 1 of the bill, proposed Subsection (b), Section 386.202, Health and Safety Code, strike ", replacement, and recycling" (page 32, line 10).

(3) In Subsection (b), Section 1 of the bill, strike proposed Subsections (b) and (c), Section 386.251, Health and Safety Code (page 33, line 24, through page 34, line 7) and substitute:

(b) The fund is administered by the comptroller for the benefit of the Texas emissions reduction plan established under this chapter. The fund is exempt from the application of Section 403.095, Government Code. Interest earned on the fund shall be credited to the fund.

(c) The fund consists of:

(1) the contributions, fees, and surcharges under:

(A) Section 386.056;

(B) Sections 151.0515, 152.0215, and 156.054, Tax Code;

and

(C) Sections 502.1675, 548.256(c), and 548.5055, Transportation Code; and

(2) grant money recaptured under Section 386.111(d).

(4) In Subsection (b), Section 1 of the bill, proposed Subsection (c), Section 388.003, Health and Safety Code, strike "or county" (page 42, line 14).

(5) In Subsection (b), Section 1 of the bill, proposed Subsection (f), Section 388.003, Health and Safety Code, strike "and county" and substitute "and each county that has established procedures under Subsection (d)." (page 43, line 24).

(6) In Subsection (d), Section 12 of the bill, strike "or county" (page 56, line 4).

(7) In Section 14 of the bill, strike "January" and substitute "August" (page 57, line 8).

(8) In Section 19 of the bill, strike "On the effective date of this Act," and substitute "Not later than October 1, 2001," (page 58, line 27).

(9) At the end of Section 19 of the bill (page 59, line 5), add:

The commission shall include with the revision a report on the effectiveness of the Texas emissions reduction plan in delivering emissions reductions to the degree sufficient to replace the requirements of the construction shift and the early purchase of Tier 2 and Tier 3 equipment.

Amendment No. 2

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

Amend the Wolens amendment to **CSSB 5** as follows:

(1) on page 1, line 22, of the amendment strike "and 548.5055"

(2) Add the following language to the amendment:

Strike Section 11 of **CSSB 5**

(Sadler in the chair)

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 5 - (consideration continued)

Representative Wolens moved to table Amendment No. 2.

A record vote was requested.

The motion to table was lost by (Record 496): 40 Yeas, 102 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bosse; Burnam; Carter; Chisum; Coleman; Cook; Counts; Danburg; Dukes; Dunnam; Ehrhardt; Gallego; Geren; Glaze; Goodman; Gray; Gutierrez; Hawley; Hinojosa; Hochberg; Hopson; Janek; Jones, D.; Junell; Kitchen; Maxey; McReynolds; Menendez; Naishtat; Rangel; Telford; Truitt; Turner, B.; Villarreal; West; Wise; Wolens.

Nays — Bailey; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Callegari; Capelo; Chavez; Christian; Clark; Corte; Crabb; Craddick; Crownover; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dutton; Edwards; Eiland;

Elkins; Ellis; Farabee; Farrar; Garcia; George; Giddings; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hilderbran; Hill; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Jones, J.; Keel; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; McCall; McClendon; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Thompson; Tillery; Turner, S.; Uher; Uresti; Walker; Williams; Wilson; Wohlgemuth; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert; Jones, E.; Oliveira.

Absent — Flores; Goolsby; Salinas.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 496. I intended to vote no.

Dunnam

When Record No. 496 was taken, I was in the house but away from my desk. I would have voted no.

Goolsby

I was shown voting yes on Record No. 496. I intended to vote no.

Wise

Amendment No. 3

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

Substitute the following for the Bonnen amendment to the amendment:

Amend the Wolens amendment to **CSSB 5** by adding the following text to the amendment:

Amend **CSSB 5** in Section 11 of the bill, proposed Subdivision (2), Subsection (b), Section 548.5055, Transportation Code (house committee printing, page 55, line 13), by striking "\$5" and substituting "\$3".

Representative Bonnen moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 497): 86 Yeas, 51 Nays, 2 Present, not voting.

Yeas — Averitt; Bailey; Berman; Bonnen; Brimer; Brown, B.; Callegari; Capelo; Christian; Clark; Corte; Crabb; Craddick; Crownover; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dunnam; Edwards; Elkins; Ellis; Farabee; Garcia; Goolsby; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hilderbran; Hill; Hodge; Hope; Howard; Hupp; Isett; Jones, D.; Jones, J.; Keel; Keffer; Kolkhorst; Krusee; Lewis, G.; Lewis, R.; Luna; Madden; Marchant; Martinez Fischer; McCall; McClendon; Merritt;

Miller; Moreno, J.; Moreno, P.; Morrison; Najera; Nixon; Noriega; Olivo; Pickett; Raymond; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Tillery; Turner, S.; Uher; Uresti; Walker; Williams; Wilson; Wise; Wohlgenuth; Zbranek.

Nays — Alexander; Allen; Bosse; Brown, F.; Burnam; Carter; Chavez; Chisum; Cook; Counts; Danburg; Dukes; Ehrhardt; Eiland; George; Geren; Glaze; Goodman; Gray; Gutierrez; Hawley; Hinojosa; Hochberg; Homer; Hopson; Hunter; Janek; Junell; King, P.; King, T.; Kitchen; Kuempel; Maxey; McReynolds; Menendez; Naishtat; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Smith; Telford; Thompson; Truitt; Turner, B.; Villarreal; West; Wolens; Woolley; Yarbrough.

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

Absent, Excused — Hilbert; Jones, E.; Oliveira.

Absent — Coleman; Dutton; Farrar; Flores; Gallego; Giddings; Longoria; Mowery.

STATEMENT OF VOTE

When Record No. 497 was taken, I was in the house but away from my desk. I would have voted yes.

Farrar

Amendment No. 4

Representatives Wolens and Howard offered the following substitute amendment for Amendment No. 2:

Substitute the following for the Bonnen amendment to the amendment:

Amend the Wolens amendment to **CSSB 5** by adding the following text to the amendment:

Amend **CSSB 5** (House committee printing) in SECTION 11 of the bill, proposed Section 548.5055(b), Transportation Code (page 55, lines 9 through 14), by striking all between "fee of" and the period and substituting "\$1".

(Speaker in the chair)

Representative Bonnen moved to table Amendment No. 4.

A record vote was requested.

The motion to table prevailed by (Record 498): 77 Yeas, 66 Nays, 1 Present, not voting.

Yeas — Bailey; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Callegari; Christian; Clark; Corte; Crabb; Craddick; Crownover; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Haggerty; Hamric; Hartnett; Heflin; Hilderbran; Hill; Hodge; Hope; Hupp; Isett; Jones, J.; Keel; Keffer; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; McCall; McClendon; Merritt; Miller; Moreno, J.; Morrison; Mowery; Najera; Nixon; Noriega; Pickett; Rangel; Raymond; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Smithee; Solis; Solomons; Talton; Tillery; Turner, B.; Turner, S.; Uher; Uresti; Williams; Wilson; Zbranek.

Nays — Alexander; Allen; Averitt; Bosse; Burnam; Capelo; Carter; Chavez; Chisum; Coleman; Cook; Counts; Danburg; Davis, J.; Davis, Y.; Dukes; Ehrhardt; Geren; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Hardcastle; Hawley; Hinojosa; Hochberg; Homer; Hopson; Howard; Hunter; Janek; Junell; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Marchant; Maxey; McReynolds; Menendez; Moreno, P.; Naishtat; Olivo; Pitts; Puente; Ramsay; Reyna, A.; Shields; Smith; Swinford; Telford; Thompson; Truitt; Villarreal; Walker; West; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Oliveira.

Absent — Giddings; Jones, D.; King, P.

STATEMENTS OF VOTE

I was shown voting no on Record No. 498. I intended to vote yes.

Olivo

I was shown voting no on Record No. 498. I intended to vote yes.

Wise

Amendment No. 2 was adopted without objection.

Amendment No. 5

Representative R. Lewis offered the following amendment to Amendment No. 1:

Amend the Wolens amendment to **CSSB 5** as follows:

- (1) on page 1, line 20, strike "and 156.054"
- (2) add the following language to the amendment:
 - (a) Strike Section 5 of the bill.
 - (b) on page 60, line 10 of the bill, strike "and 156.054,"

(Eiland in the chair)

Representative Wolens moved to table Amendment No. 5.

A record vote was requested.

The motion to table was lost by (Record 499): 29 Yeas, 112 Nays, 2 Present, not voting.

Yeas — Alexander; Bosse; Burnam; Capelo; Chisum; Coleman; Cook; Counts; Danburg; Dukes; Ehrhardt; Farrar; Geren; Glaze; Goodman; Hochberg; Hope; Junell; King, T.; Kitchen; Maxey; Merritt; Moreno, J.; Naishtat; Najera; Smith; Telford; Truitt; Wolens.

Nays — Allen; Averitt; Bailey; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chavez; Christian; Clark; Corte; Crabb; Craddock; Crownover; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dutton; Edwards; Elkins; Ellis; Farabee; Flores; Gallego; Garcia; George;

Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hodge; Homer; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miller; Moreno, P.; Morrison; Mowery; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smithee; Solomons; Swinford; Talton; Thompson; Tillery; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wohlgemuth; Woolley; Yarbrough; Zbrank.

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

Absent, Excused — Hilbert; Jones, E.; Oliveira.

Absent — Dunnam; Giddings; Solis; Wise.

STATEMENT OF VOTE

When Record No. 499 was taken, my vote failed to register. I would have voted no.

Wise

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representatives Wolens, Bonnen, R. Lewis, Uher, and McClendon offered the following amendment to Amendment No. 1:

Amend the Wolens amendment to **CSSB 5** by adding the following text to the amendment:

Amend **CSSB 5** in Section 10 of the bill by striking the proposed Subsection (c), Section 548.256, Transportation Code (house committee printing, page 54, lines 22-26), and substituting:

(c) The inspection station shall collect a fee of \$150 for each inspection performed under this section and shall remit the fee to the department. Of each fee collected, the inspection station may retain \$5 to cover administrative costs. The department shall remit all fees collected under this subsection to the comptroller for deposit in the Texas emissions reduction plan fund. This subsection expires August 31, 2008.

Amendment No. 6 was adopted without objection.

Amendment No. 7

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

Amend the Wolens amendment to **CSSB 5** as follows:

(1) On page 1, line 22 of the amendment, strike "502.1675"

(2) Add the following language to the amendment:

Strike Section 8 of the bill.

Representative Wolens moved to table Amendment No. 7.

The motion to table prevailed. (Walker recorded voting no)

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

Amendment No. 8

Representative S. Turner offered the following amendment to **CSSB 5**:

Amend **CSSB 5** as follows:

(1) On page 34, between lines 7-8, insert new Subsection (d):

(d) In lieu of the money from sources described in Subsection (c), the fund may consist of money from the negative stranded costs surcharge under Section 39.201(d), Utilities Code.

(2) On page 55, between lines 19-20, insert the new appropriately numbered Sections of the bill and renumber subsequent Sections of the bill accordingly:

SECTION __. Section 39.2011, Utilities Code, is added to read as follows:

Sec. 39.2011. TEXAS EMISSIONS REDUCTION PLAN SURCHARGE; NEGATIVE STRANDED COSTS. (a) If the commission determines that an electric utility that is subject to Section 39.254 and that has a service area exclusively located within the Electric Reliability Council of Texas does not have positive stranded costs based on a computation under Section 39.201(h), the commission shall order that mitigation attributable to positive differences identified under Section 39.257, excluding estimates of positive differences for calendar year 2001 and including mitigation attributable to excess earnings identified in accordance with transition plans approved by the commission, be applied such that 50 percent of such amounts allocable to residential customers, according to a methodology determined by the commission, shall be applied:

(1) first, as a negative stranded costs surcharge dedicated to the Texas Emissions Reduction Plan Fund, in a total amount for all such electric utilities not to exceed the equivalent of the present value of \$150 million per year for the equivalent of seven years, in accordance with rules of the commission; and

(2) for all remaining amounts, as ordered by the commission, as provided by law.

(b) A credit ordered in accordance with Subsection (a)(1) is not a reduction to retail base rates. If this section applies, any positive difference under the report required by Section 39.257(b) shall be applied as ordered by the commission.

SECTION __. (a) If the Public Utility Commission directs a negative stranded costs surcharge to the Texas Emissions Reduction Plan Fund under Section 39.2011, Utilities Code, and the negative stranded costs surcharge will equal the equivalent of the present value of \$150 million per year for the equivalent of seven years, the other fees and surcharges imposed by this Act shall no longer be collected as of the year following the collection of the negative stranded costs surcharge.

(b) If the Public Utility Commission directs a negative stranded costs surcharge to the Texas Emissions Reduction Plan Fund under Section 39.2011, Utilities Code, and the negative stranded costs surcharge will not equal the amount in Subsection (a), the comptroller shall reduce all other fees and surcharges imposed by this Act proportionately in an amount needed to equal \$150 million per year for the years remaining until the fees and surcharges expire.

(E. Jones now present)

Amendment No. 8 was withdrawn.

Amendment No. 9

Representative Wolens offered the following amendment to **CSSB 5**:

Amend **CSSB 5** (House committee printing) as follows:

(1) In SECTION 1(b) of the bill, at the end of proposed Section 386.155, Health and Safety Code (page 28, line 8), add "The manufacturer may supplement the list provided to the commission under this section as necessary to include additional new vehicle models the manufacturer intends to sell in this state during the model year.".

(2) In SECTION 1(b) of the bill, at the end of proposed Section 386.156(a), Health and Safety Code (page 28, line 12), add "The commission shall publish and provide to the comptroller supplements to that list as necessary to include additional new vehicle models listed in a supplement to the original list provided by a manufacturer under Section 386.155.".

(3) In SECTION 1(b) of the bill, in the heading to proposed Section 386.157, Health and Safety Code (page 28, line 16), strike "LABEL" and substitute "BROCHURE".

(4) In SECTION 1(b) of the bill, in proposed Section 386,157(a), Health and Safety Code (page 28, lines 19 through 27), strike all following "manufacturer" and substitute "shall publish and make available to its dealers, for distribution to the dealers' customers, a brochure that includes the list of eligible motor vehicles prepared under Section 386.156 and the emissions and air pollution ratings, not including fuel efficiency, for each eligible motor vehicle based on data from the United States Environmental Protection Agency's Green Vehicle Guide. The brochure must also clearly present information on the emissions and air pollution ratings, not including fuel efficiency, for each motor vehicle on the list of eligible motor vehicles prepared by the manufacturer under Section 386.155, based on the motor vehicle's BIN certification number. The brochure must indicate where the BIN certification information is located on each motor vehicle and must clearly explain how to interpret that information. The brochure must also tell the consumer how to obtain further information from the United States Environmental Protection Agency's Green Vehicle Guide. The commission by rule shall establish standards for compliance with this subsection.".

(5) In SECTION 1(b) of the bill, at the end of proposed Section 386.159(b), Health and Safety Code (page 29, line 24), add: "To help a consumer to make informed new vehicle purchase decisions, the notice must also include a statement that information on eligible motor vehicles and on the emissions and air pollution ratings, not including fuel efficiency, for eligible motor vehicles may be obtained from the commission or from new motor vehicle dealers and leasing agents. The notice must state where the BIN certification information is located on each eligible motor vehicle, must clearly explain how to interpret that information, and must tell the consumer how to obtain further information from the United States Environmental Protection Agency's Green Vehicle Guide.".

Amendment No. 9 was adopted without objection.

Amendment No. 10

Representative Madden offered the following amendment to **CSSB 5**:

Amend **CSSB 5** (House committee printing) in SECTION 1(b) of the bill, proposed Section 386.053(c), Health and Safety Code (page 5, line 21), after the period add "The public meeting shall be held in the affected area, and if the guidelines affect more than one area, a public meeting shall be held in each affected area affected by the guidelines."

Amendment No. 10 was withdrawn.

Amendment No. 11

Representative Madden offered the following amendment to **CSSB 5**:

Amend **CSSB 5** (House committee printing) in SECTION 1(b) of the bill, proposed Section 386.053(c), Health and Safety Code (page 5, line 21), after the period add "The public meeting shall be held in the affected SIP area, and if the guidelines affect more than one SIP area, a public meeting shall be held in each affected SIP area affected by the guidelines."

(Speaker in the chair)

Amendment No. 11 was adopted without objection.

Amendment No. 12

Representative Madden offered the following amendment to **CSSB 5**:

Amend **CSSB 5** (House committee report) in SECTION 1(b) of the bill, proposed Section 386.054(a), Health and Safety Code (page 6, line 20), by striking "annually" and substituting "semi- annually".

Amendment No. 12 was adopted without objection.

Amendment No. 13

Representative Madden offered the following amendment to **CSSB 5**:

Amend **CSSB 5** as follows:

(1) In SECTION 1(b) of the bill, added Section 386.058, Health and Safety Code (House Committee Printing, page 11, line 14 through page 12, line 11), strike Subsections (b), (c) and (d), substitute the following new subsection (b), and renumber subsequent subsections accordingly:

(b) The governor, the lieutenant governor and the speaker of the House of Representatives each shall appoint to the advisory board 5 members representing industries that:

(1) pay revenues to the fund; and

(2) receive benefits from the fund.

(2) In SECTION 1(b) of the bill, added Section 386.058(h), Health and Safety Code (House Committee Printing, page 13, line 14), after the period, add:

The advisory board may not recommend an increase in incentives or budgets unless it also identifies and recommends an increase in a revenue source. The advisory board may not recommend an increase in a revenue source unless it makes a finding, based on sound science, that the revenue

source is a significant source of emissions in the nonattainment area or an area that the advisory board believes may be designated as a nonattainment area in the near future.

Representative Wolens moved to table Amendment No. 13.

The motion to table prevailed.

Amendment No. 14

Representative Swinford offered the following amendment to **CSSB 5**:

CSSB 5 is amended as follows:

(1) On page 26, strike the incentive schedule as shown in 386.113 and replace with the following schedule:

<u>Incentive emissions standard</u>	<u>Reimbursement amount</u>
<u>(oxides of nitrogen)</u>	
<u>Date of manufacture</u>	
<u>(9/01/01-9/30/06)</u>	
<u>2.5 g/bhp-hr NOx</u>	<u>up to \$15,000</u>
less than 1.5g/bhp-hr NOx	up to \$25,000

Representative Wolens moved to table Amendment No. 14.

The motion to table prevailed.

Amendment No. 15

Representative Wolens offered the following amendment to **CSSB 5**:

Amend **CSSB 5** as follows:

(1) In SECTION 3 of the bill, proposed Subsection (a), Section 152.0215, Tax Code (House Committee Printing, page 49, line 17), strike "five" and substitute "2.5".

(2) Add a new SECTION to the bill, numbered appropriately, to read as follows:

SECTION__ . Subchapter H, Chapter 548, Transportation Code, is amended by adding Section 548.5055 to read as follows:

Sec. 548.5055. TEXAS EMISSION REDUCTION PLAN FEE. (a) In addition to other fees required by this subchapter, to fund the Texas emissions reduction plan established under Chapter 386, Health and Safety Code, the department shall collect for every commercial motor vehicle required to be inspected under Subchapter D, a fee of \$10.

(b) The department shall remit fees collected under this section to the comptroller at the time and in the manner prescribed by the comptroller for deposit in the Texas emission reduction plan fund.

(c) This section expires August 31, 2008.

Amendment No. 15 was adopted without objection.

Amendment No. 16

Representative Coleman offered the following amendment to **CSSB 5**:

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

(1) On page 38, line 6, after 'commission' add 'and conducted in an independent and objective manner.'

Amendment No. 16 was adopted without objection.

Amendment No. 17

Representative Madden offered the following amendment to **CSSB 5**:

Amend **CSSB 5** (house committee printing) as follows:

(1) In Subsection (b), Section 1 of the bill, proposed Section 387.007, Health and Safety Code (page 39, line 3), between "money" and the period, insert:

except that the council shall require contract provisions for recapturing grant money in proportion to any underachievement of performance measures on which the grant is conditioned. Grant money recaptured under the contract provisions shall be deposited in the environmental research fund and reallocated for other projects under this subchapter.

(2) In Subsection (b), Section 1 of the bill, at the end of proposed Section 387.010, Health and Safety Code (page 40, line 1), add:

Using sound science, the report shall detail the costs and actual, realized benefits of the program and each project funded under the program.

Amendment No. 17 was withdrawn.

Amendment No. 18

Representative Howard offered the following amendment to **CSSB 5**:

Amend proposed **CSSB 5** as follows:

(1) In SECTION 1(b) of the bill, proposed Section 388.002, Health and Safety Code, strike Subdivision (2) (page 40, lines 20 and 21) and substitute the following:

(2) "Building" means a single-family residential structure.

(2) In SECTION 1(b) of the bill, proposed Section 388.003, Health and Safety Code, strike Subsection (b) (page 42, lines 9 through 13) and appropriately reletter subsequent subsections of that proposed section.

LEAVE OF ABSENCE GRANTED

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

Solomons on motion of G. Lewis.

CSSB 5 - (consideration continued)

Representative Dukes moved to table Amendment No. 18.

The motion to table prevailed.

Amendment No. 19

Representative Green offered the following amendment to **CSSB 5**:

Amend **CSSB 5** (House committee printing) in SECTION 1(b) of the bill, at the end of proposed Section 388.003, Health and Safety Code (page 44, between lines 9 and 10), by adding Subsection (i) to read as follows:

(i) A person acting as the person's own general contractor in the construction of a single-family residence that will be occupied by that person is not subject to building energy performance standards prescribed by or adopted under this section.

Representative Wolens moved to table Amendment No. 19.

The motion to table prevailed.

Amendment No. 20

Representative Madden offered the following amendment to **CSSB 5**:

Amend **CSSB 5** (House committee printing) as follows:

(1) In SECTION 1(b) of the bill, at the end of proposed Section 387.007, Health and Safety Code (page 39, line 3), between "money" and the period, add ", except that the council shall require provisions for recapturing grant money for noncompliance with grant requirements. Grant money recaptured under the contract provision shall be deposited in the fund and reallocated for other projects under this subchapter".

(2) In SECTION 1(b) of the bill, at the end of proposed Section 387.010, Health and Safety Code (page 40, line 1), after the period, add "Using sounds science, the report shall detail the costs and actual realized benefits of the program and of each project funded under the program".

Amendment No. 20 was adopted without objection.

Amendment No. 21

Representative Chisum offered the following amendment to **CSSB 5**:

Amend **CSSB 5**, House Committee Report, on page 47, between lines 7 and 8, add a new Section 388.009 to read as follows:

Sec. 388.009. EFFECTIVE DATE OF TEXAS BUILDING ENERGY PERFORMANCE STANDARDS. (a) The commission may not adopt rules or implement the provisions of this chapter until:

(1) the Texas Emissions Reduction Plan Advisory Board established under Sec. 386.058 determines that the state will receive a verifiable amount of credit toward the state implementation plan from the United States Environmental Protection Agency; and

(2) the Texas Emissions Reduction Plan Advisory Board notifies the governor, the lieutenant governor, speaker of the house of representatives and the commission that the state will receive a verifiable amount of credit.

(b) The commission may not adopt rules or implement the provisions of this chapter unless the commission determines that the amount credit to be received will outweigh any costs after an analysis the building codes program.

Amendment No. 21 was withdrawn.

Amendment No. 22

Representative Swinford offered the following amendment to **CSSB 5**:

Amend **CSSB 5** as follows:

(1) On page 52, line 1, between "water" and "that", insert a comma and "fuel ethanol, biodiesel, or mixtures thereof".

(2) On Page 52, line 1, strike "is" and substitute "are".

(3) On Page 52, line 4, between "water" and the period, insert a comma and "fuel ethanol, biodiesel, or mixtures thereof".

Amendment No. 22 was adopted without objection.

Amendment No. 23

Representative Gutierrez offered the following amendment to **CSSB 5**:

Amend **CSSB 5**, (House Committee Printing, page 55, line 20) SECTION 12, by substituting the following language and renumbering subsequent sections accordingly to read as follows:

"SECTION 12. Subchapter A, Chapter 548, Transportation Code, is amended by adding Section 548.006 to read as follows:

Sec. 548.006. AUTOMATION OF INSPECTION PROCEDURES. (a) The department shall develop and administer procedures to automate the compulsory motor vehicle inspection system and its compliance and enforcement under Subchapter (F) of this Chapter and subsection (h)(3) of this Act.

(b) As a condition of certifying a person as an inspection station under this chapter, the department may require the applicant to participate in the automated inspection system.

(c) The automated inspection system developed by the department must include asymmetric cryptosystem security protection or a digital signature for each inspector who accesses the system and must assure compliance with and enforcement of the system through technology that provides current data using a remote process and that can be read using existing or new technologies.

(d) As a condition of certifying a person as an inspector under this chapter, the department may require the applicant to agree that:

(1) the person's asymmetric cryptosystem password or key or the person's digital signature is equivalent, for inspection purposes, to the person's written signature; and

(2) on certification and for all purposes, the person is legally responsible for any inspection performed under the person's asymmetric cryptosystem password or key or under the person's digital signature.

(e) The use of asymmetric cryptosystem security protection under this section is subject to the criminal laws pertaining to fraud and computer crimes, including Chapters 32 and 33, Penal Code.

(f) The department may enter into one or more contracts with another person to implement this section.

(g) If the department enters into a contract for the implementation of the automated inspection system, the contractor may not disclose to any person, other than the department, data that is related to the automated inspection system and collected by the contractor.

(h) In this section:

(1) "Asymmetric cryptosystem" means a computer-based system that uses two different but mathematically related keys or passwords, one of which encrypts a given message and the other of which decrypts that message, and is designed so that if one key or password is known, it is computationally infeasible to determine the other.

(2) "Digital signature" has the meaning assigned by Section 2054.060, Government Code.

(3) "Affected county" includes:

(A) Bastrop County;

(B) Bexar County;

(C) Caldwell County;
(D) Comal County;
(E) Ellis County;
(F) Gregg County;
(G) Guadalupe County;
(H) Harrison County;
(I) Hays County;
(J) Johnson County;
(K) Kaufman County;
(L) Nueces County;
(M) Parker County;
(N) Rockwall County;
(O) Rusk County;
(P) San Patricio County;
(Q) Smith County;
(R) Travis County;
(S) Upshur County;
(T) Victoria County;
(U) Williamson County; and
(V) Wilson County.

(h) The department by rule shall require a motor vehicle registered in a county using the automated compulsory motor vehicle inspection system to be inspected in any county using the same system.

SECTION 13. Subchapter H, Chapter 548, Transportation Code, is amended by adding Section 548.508 to read as follows:

Sec. 548.508. FEES FOR AUTOMATED INSPECTION SYSTEM. (a) In addition to any other fee authorized by this subchapter, the department may impose a fee not to exceed \$1.00, the fee to be reduced by 50 cents to 50 cents on September 1, 2007, for each safety inspection certificate sold to an inspection station located in a county affected by Section 548.006 to provide funding for the automated inspection system.

(b) In addition to the fees authorized by Sections 548.501, 548.503, and 548.504, for each inspection performed under this chapter, an inspection station may impose a fee not to exceed the amount of any fee imposed under Subsection (a).

(c) The department shall deposit fees collected under Subsection (a) to the credit of the automated inspection system account. The automated inspection system account is an account in the general revenue fund that may be appropriated only to the department for the development, testing, implementation, and administration of the automated inspection system under Section 548.006.

(d) The Texas Department of Public Safety is hereby appropriated funds from the Texas Emissions Reduction Plan Fund, fund 151, to automate the compulsory motor vehicle inspection system. The sum of \$9,750,000 for the fiscal year ending August 31, 2002 and \$9,750,000 for the fiscal year ending August 31, 2003 to fund the department to implement testing and enforcement required by this section."

Representative R. Lewis raised a point of order against further consideration of Amendment No. 23 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill

The point of order was withdrawn.

Amendment No. 23 was withdrawn.

Amendment No. 24

Representative S. Turner offered the following amendment to **CSSB 5**:

Amend **CSSB 5** as follows:

(1) In SECTION 1(b) of the bill, in proposed Section 386.251(c), Health and Safety Code, at the end of Subdivision (2) (House Committee Printing page 34, line 5), strike "and".

(2) In SECTION 1(b) of the bill, in proposed Section 386.251(c)(3), Health and Safety Code, between "Code" and the period (House Committee Printing page 34, line 7), insert the following:

: and

(4) money from the negative stranded costs surcharge under Section 39.2011, Utilities Code

(3) In SECTION 1(b) of the bill, at the end of proposed Section 386.251, Health and Safety Code (House Committee Printing page 34, between lines 7 and 8), insert the following:

(d) Notwithstanding any other provision of law, the fees, surcharges, and other amounts listed in Subsections (c)(1)-(3) are proportionately reduced so that those fees, surcharges, and other amounts generate in the aggregate an amount equal to the difference between \$100 million and the amount deposited in the fund under Subsection (c)(4).

(4) Between SECTIONS 11 and 12 of the bill (House Committee Printing page 55, between lines 19 and 20), insert the following SECTION, appropriately numbered, and renumber the subsequent sections accordingly.

SECTION __. Subchapter E, Chapter 39, Utilities Code, is amended by adding Section 39.2011 to read as follows:

Sec. 39.2011. SURCHARGE ON NEGATIVE STRANDED COSTS. (a) If the commission determines that an electric utility that is subject to Section 39.254 and that has a service area exclusively located within the Electric Reliability Council of Texas does not have positive stranded costs based on a computation under Section 39.201(h), the commission shall order that mitigation attributable to positive differences identified under Section 39.257, excluding estimates of positive differences for calendar year 2001 and including mitigation attributable to excess earnings identified in accordance with transition plans approved by the commission, be applied such that 50 percent of such amounts allocable to residential customers, according to a methodology, shall be applied:

(1) first, as a negative stranded costs surcharge to be deposited in the Texas emissions reduction plan fund, in a total amount for all such electric utilities not to exceed \$100 million per year for three years, in accordance with rules of the commission; and

(2) second, as a negative stranded costs surcharge to be used to fund the low-income vehicle repair assistance, retrofit, and accelerated vehicle

retirement program established under Section 382.209, Health and Safety Code.

(b) A surcharge under Subsection (a) is not a reduction to retail base rates. If this section applies, any positive difference under the report required by Section 39.257(b) shall be applied in accordance with this section as ordered by the commission.

Representative Wolens moved to table Amendment No. 24.

The motion to table prevailed.

CSSB 5, as amended, was passed to third reading. (Clark, Hupp, Isett, Swinford, and Walker recorded voting no)

POSTPONED BUSINESS

The following bill was laid before the house as postponed business:

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 and amended, postponed until May 17, postponed until May 18, postponed until earlier today, and was again postponed until this time.

Representative Wolens moved to postpone consideration of **CSSB 1783** until 9 a.m. tomorrow.

The motion prevailed without objection.

MAJOR STATE CALENDAR (consideration continued)

CSSB 1156 ON SECOND READING (Coleman, Gray, Janek, Eiland, and Junell - House Sponsors)

CSSB 1156, A bill to be entitled An Act relating to the state Medicaid program.

Amendment No. 1

Representative Coleman offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** as follows:

(1) In the recital of SECTION 1 of the bill (House committee printing, page 1, line 5), strike "Subsections (x) and (y)" and substitute "Subsections (x), (y), and (z)".

(2) In SECTION 1 of the bill, following proposed Section 32.024(y), Human Resources Code (House committee printing, page 2, between lines 8 and 9), insert the following:

(z) The department shall provide hyperbaric oxygen therapy to the extent permitted by federal law.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Coleman offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** as follows:

(1) In the recital of SECTION 1 of the bill (House committee printing, page 1, line 5), strike "Subsections (x) and (y)" and substitute "Subsection (x)".

(2) In SECTION 1 of the bill, in proposed Section 32.024(x), Human Resources Code (House committee printing, page 1, lines 7-9), strike "the department may not limit benefits for the number of medications prescribed to a recipient of prescription drug benefits under the medical assistance program. In" and substitute "and in".

(3) In SECTION 1 of the bill, in proposed Section 32.024(x), Human Resources Code (House committee printing, page 1, line 10), strike "also".

(4) In SECTION 1 of the bill (House committee printing, page 1, line 21, through page 2, line 8), strike proposed Section 32.024(y), Human Resources Code.

(5) In SECTION 4 of the bill, in proposed Section 32.0271, Human Resources Code (House committee printing, page 7, between lines 1 and 2), insert the following:

(c) A managed care organization or a managed care plan, as those terms are defined by Section 533.001, Government Code, may not by contract or any other method require a physician to use the services of a nurse first assistant in providing care to a recipient of medical assistance.

(6) In SECTION 4 of the bill, in proposed Section 32.0271(c), Human Resources Code (House committee printing, page 7, line 2), strike "(c)" and substitute "(d)".

(7) In SECTION 9(a) of the bill, in proposed Section 531.02103(a)(1), Government Code (House committee printing, page 26, line 12), strike "in areas of the state" and substitute "to areas of the state and to populations".

(8) In SECTION 9(a) of the bill, in proposed Section 531.02103(a)(3), Government Code (House committee printing, page 26, line 19), strike "+ Plus".

(9) In SECTION 9(a) of the bill, in proposed Section 531.02103(a)(6), Government Code (House committee printing, page 27, lines 3 and 4), strike ", provided that the initiatives may not apply to pharmacies participating in the vendor drug program".

(10) In SECTION 9(a) of the bill, in proposed Section 531.02103(a)(9), Government Code (House committee printing, page 27, line 14), between "services" and "as necessary", insert ", including use of prior authorization requirements,".

(11) In SECTION 9(a) of the bill, in proposed Section 531.02103(a)(12), Government Code (House committee printing, page 27, lines 21-23), strike "by not more than five percent for cases that exceed the established rate of reimbursement".

(12) In SECTION 9(a) of the bill, in proposed Section 531.02103(b), Government Code (House committee printing, page 27, lines 26 and 27), strike "and shall solicit input on the need for and effect of those strategies".

(13) In SECTION 9(a) of the bill, in proposed Section 531.02103(b), Government Code (House committee printing, page 28, line 1), strike "may use" and substitute "shall use".

(14) In SECTION 9(a) of the bill, in proposed Section 531.02103(b), Government Code (House committee printing, page 28, lines 2-4), strike "or may hold public hearings in the development of agency rules and procedures and necessary state plan amendments or waivers".

(15) In SECTION 9(a) of the bill, in proposed Section 531.02103, Government Code (House committee printing, page 28, between lines 4 and 5), insert the following:

(c) The commission shall hold public hearings at least quarterly regarding the development and implementation of strategies under Subsection (a) and the development of agency procedures and necessary state plan amendments or waivers. If the commission proposes to adopt a rule necessary to implement a strategy under Subsection (a), the commission shall adopt the rule in accordance with Chapter 2001 and hold any public hearing required by that chapter.

(16) In SECTION 9(a) of the bill (House committee printing, page 29, line 22, through page 30, line 15), strike proposed Section 531.02106, Government Code, and substitute the following:

Sec. 531.02106. LIMITS ON MEDICAID COST-SHARING. Before requiring Medicaid recipients to make copayments or comply with other cost-sharing requirements, the commission by rule shall establish monthly limits on total copayments and other cost-sharing requirements.

(17) In SECTION 10 of the bill, in proposed Section 531.02131, Government Code (House committee printing, page 31, lines 3-12), strike Subsections (b), (c), and (d).

(18) In SECTION 10 of the bill, in proposed Section 531.02131(e), Government Code (House committee printing, page 31, line 13), strike "(e) To the extent feasible and appropriate, the" and substitute "(b) The".

(19) In SECTION 15 of the bill, in proposed Section 531.055, Government Code (House committee printing, page 34, lines 4-17), strike Subdivisions (1) and (2) and substitute the following:

(1) identifies the Medicaid provider reimbursement rates established by rule for each county in this state and the premiums paid to Medicaid managed care organizations in this state;

(2) compares the rates and premiums identified under Subdivision (1) to:

(A) the rates and premiums paid by other health care payors, including Medicare, in the same county or other relevant area of the state for comparable services provided to comparable populations; and

(B) the appropriate Medicaid rates of the top 15 industrial states as ranked by the United States Department of Commerce Bureau of Economic Analysis based on gross state product;

(20) In the recital of SECTION 18 of the bill (House committee printing, page 39, line 19), strike "Sections 533.0021, 533.0022, and 533.0023" and substitute "Sections 533.0021, 533.0022, 533.0023, and 533.0024".

(21) In SECTION 18 of the bill, in proposed Section 533.0021(1), Government Code (House committee printing, page 41, lines 9-13), strike Paragraph (C) and substitute the following:

(C) ensures that the community is given an opportunity to provide input and participate in the implementation of the system in the

health care service region by holding public hearings in the community at which the commission takes public comment from all persons interested in the implementation of the system;

(22) In SECTION 18 of the bill, in proposed Section 533.0023, Government Code (House committee printing, page 42, line 25), between "SYSTEM." and "The", insert "(a)".

(23) In SECTION 18 of the bill, at the end of proposed Section 533.0023, Government Code (House committee printing, page 43, between lines 1 and 2), insert the following:

(b) The commissioner of health and human services shall adopt rules and obtain public input in accordance with Chapter 2001 before making substantive changes to policies or programs under the Medicaid managed care program.

Sec. 533.0024. RESOLUTION OF IMPLEMENTATION ISSUES. The commission shall conduct a meeting at least quarterly with managed care organizations that contract with the commission under this chapter and health care providers to identify and resolve implementation issues with respect to the Medicaid managed care program.

(24) Strike SECTION 19 of the bill (House committee printing, page 43, lines 2-24) and renumber subsequent SECTIONS of the bill accordingly.

(25) In SECTION 21(a) of the bill, in amended Section 533.005, Government Code (House committee printing, page 46, lines 1-13), strike proposed Subdivisions (11) and (12) and substitute the following:

(11) a process by which the commission is required to:

(A) provide in writing to the managed care organization the projected fiscal impact on the state and managed care organizations that contract with the commission under this chapter of proposed Medicaid managed care program, benefit, or contract changes; and

(B) negotiate in good faith regarding appropriate operational and financial changes to the contract with the managed care organization before implementing those changes;

(12) a requirement that the managed care organization providing services to recipients under a Medicaid STAR + Plus pilot program:

(A) have an appropriate number of clinically trained case managers within the Medicaid STAR + Plus pilot program service delivery area to manage medically complex patients; and

(B) implement disease management programs that address the medical conditions of the Medicaid STAR + Plus pilot program population, including persons with HIV infection, AIDS, or sickle cell anemia;

(13) a requirement that the renewal date of the contract coincide with the beginning of the state fiscal year; and

(14) a requirement that the managed care organization reimburse health care providers for an appropriate emergency medical screening that is within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, and that is provided to determine whether:

(A) an emergency medical or psychiatric condition exists; and

(B) additional medical examination and treatment is required to stabilize the emergency medical or psychiatric condition.

(26) In the recital of SECTION 22(a) of the bill (House committee printing, page 46, line 25), strike "533.016-533.0208" and substitute "533.016-533.0207".

(27) In SECTION 22(a) of the bill, in proposed Section 533.018(a)(2), Government Code (House committee printing, page 53, lines 11 and 12), strike "monitoring, regulation," and substitute "monitoring, reporting, reviewing of forms, regulation,".

(28) In SECTION 22(a) of the bill, strike proposed Section 533.018(b), Government Code (House committee printing, page 53, line 14, through page 57, line 6), and substitute the following:

(b) The memorandum of understanding under this section must:

(1) maximize the use of electronic filing of information by managed care organizations contracting with the commission under this chapter;

(2) specify the process by which the commission and the Texas Department of Insurance will jointly schedule a single on-site visit that satisfies the requirements of all state agencies regarding regularly scheduled, comprehensive compliance monitoring of and enforcement efforts with respect to managed care organizations contracting with the commission under this chapter;

(3) require that interagency orientation and training are scheduled and conducted to ensure that agency staff members are familiar with the obligation to eliminate and prevent duplicative monitoring and enforcement activities; and

(4) ensure coordination to eliminate and prevent duplication regarding policy development and implementation, procurement, cost estimates, electronic systems issues, and monitoring and enforcement activities with respect to managed care organizations that serve recipients as well as enrollees in the state child health plan under Chapter 62, Health and Safety Code.

(29) In SECTION 22(a) of the bill, in the heading to proposed Section 533.019, Government Code (House committee printing, page 57, line 7), between "533.019." and "OPERATIONAL", insert "INTEGRATED".

(30) In SECTION 22(a) of the bill, in proposed Section 533.019(a), Government Code (House committee printing, page 57, line 9), strike "an operational and financial" and substitute "an integrated operational and financial".

(31) In SECTION 22(a) of the bill, in proposed Section 533.019(b), Government Code (House committee printing, page 57, line 14), strike "the operational and financial" and substitute "the integrated operational and financial".

(32) In SECTION 22(a) of the bill, in proposed Section 533.019(c), Government Code (House committee printing, page 58, lines 7 and 8), between "the" and "operational and financial", insert "integrated".

(33) In SECTION 22(a) of the bill, strike proposed Section 533.0208, Government Code (House committee printing, page 62, line 20, through page 63, line 12).

(34) In SECTION 22 of the bill, following Subsection (a) of that SECTION (House committee printing, page 63, between lines 12 and 13), insert the following and reletter subsequent subsections of that SECTION accordingly:

(b) Not later than March 1, 2002, the Health and Human Services Commission and each appropriate health and human services agency

implementing part of the Medicaid managed care program under Chapter 533, Government Code, shall complete the requirements for reducing and coordinating reporting requirements and inspection procedures as required by Section 533.017, Government Code, as added by this Act.

(35) In SECTION 22(c) of the bill (House committee printing, page 63, line 21), strike "the operational and financial" and substitute "the integrated operational and financial".

(36) Strike SECTION 22(f) of the bill (House committee printing, page 64, lines 9-16).

(37) In SECTION 26(b) of the bill (House committee printing, page 68, lines 5 and 6), strike "Implementation of Section 533.0208, Government Code, as added by this Act, is governed by Section 22 of this Act."

Amendment No. 3

Representatives Gray and Wohlgemuth offered the following amendment to Amendment No. 2:

Amend the Coleman amendment No. 2 to **CSSB 1156** by striking Item (10) of the amendment on page 2, lines 9-12, and renumbering subsequent items accordingly.

Amendment No. 3 was adopted without objection.

Amendment No. 2, as amended, was adopted without objection.

Amendment No. 4

Representatives Hawley, Gutierrez, and Hopson offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** (House Committee Printing) as follows:

On page 27, line 3 after the word "program," insert "provided that the initiatives shall not apply to a Class A community independent pharmacy or a Class A community chain pharmacy with ten or fewer pharmacies."

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Janek offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** as follows:

(1) In the recital to SECTION 2(a) of the bill (House committee printing, page 2, line 9), strike "(a)".

(2) In the recital to SECTION 2(a) of the bill (House committee printing, page 2, line 10), strike "Sections 32.0247 and 32.0248" and substitute "Section 32.0247".

(3) In SECTION 2(a) of the bill, strike proposed Section 32.0248, Human Resources Code (House committee printing, page 3, lines 5-19).

(4) Strike SECTION 2(b) of the bill (House committee printing, page 3, lines 20-25).

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Janek offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** as follows:

(1) In SECTION 3 of the bill, in proposed Section 32.0252(c), Human Resources Code (House committee printing, page 5, line 18), strike "The" and substitute "Except as provided by Subsection (d), the"

(2) In SECTION 3 of the bill, in proposed Section 32.0252, Human Resources Code (House committee printing, page 5, between lines 23 and 24), insert the following new Subsection (d) and redesignate subsequent subsections accordingly:

(d) Notwithstanding Subsection (c), the commissioner may apply for federal authorization to allow a designated employee of an entity described by Subsection (a) to make a final determination of eligibility or enroll an eligible person in the program.

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Chisum offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156**, by adding, on page 7, line 9, the following as Section 6 and renumber the following as necessary.

Section 6. Section 1, Chapter 11, Human Resources Code is amended by adding new subsection 11.001(7) to read as follows:

(7) "Spouse" means a husband, who is a male, or a wife, who is a female. A member of a civil union or similar relationship entered into in another state between persons of the same sex is not a spouse.

Representative Maxey raised a point of order against further consideration of Amendment No. 7 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill.

The point of order was withdrawn.

Amendment No. 7 was withdrawn.

Amendment No. 8

Representative Howard offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** as follows:

(1) In SECTION 7(a) of the bill, at the end of proposed Section 32.055, Human Resources Code (House committee printing, page 19, between lines 5 and 6), add the following subsection:

(e) The Health and Human Services Commission shall ensure that money under a demonstration project established by this section may not be used for an abortion, as defined by Section 245.002, Health and Safety Code, abortion-related services, or counseling and referrals for an abortion or abortion-related services, except to the extent required by federal law for the state's continued participation in the medical assistance program.

(2) In SECTION 7(a) of the bill, in proposed Section 32.056(g), Human Resources Code (House committee printing, page 21, lines 2-3), strike

"Health and Safety Code." and substitute "Health and Safety Code, abortion-related services, or counseling and referrals for an abortion or abortion-related services, except to the extent required by federal law for the state's continued participation in the medical assistance program."

Amendment No. 8 was withdrawn.

Amendment No. 9

Representative Crownover offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** in SECTION 7(a) of the bill, in proposed Subsection (a), Section 32.056, Human Resources Code (House Committee Printing, page 19, line 15), between "methods" and the semicolon, by inserting the following:

that includes:

(A) promoting abstinence as the preferred choice of behavior related to all sexual activity for unmarried persons;

(B) emphasizing abstinence from sexual activity, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus or acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity; and

(C) informing single and divorced adults that abstinence from sexual activity before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with human immunodeficiency virus or acquired immune deficiency syndrome

Amendment No. 9 was adopted without objection.

Amendment No. 10

Representative P. King offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** (House Committee Printing) in SECTION 7 of the bill, in added Section 32.056(b), Human Resources Code (page 20, lines 3-4), by striking "is of childbearing age, as determined by the department" and substituting "is 18 years of age or older".

Representative Coleman moved to table Amendment No. 10.

A record vote was requested.

The motion to table was lost by (Record 500): 46 Yeas, 97 Nays, 1 Present, not voting.

Yeas — Burnam; Capelo; Chavez; Coleman; Counts; Danburg; Davis, Y.; Deshotel; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Flores; Garcia; Giddings; Glaze; Gray; Hinojosa; Hochberg; Hodge; Jones, J.; Kitchen; Lewis, G.; Longoria; Martinez Fischer; Maxey; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Noriega; Olivo; Rangel; Raymond; Reyna, A.; Solis; Telford; Thompson; Turner, S.; Uresti; Villarreal; Wilson; Wolens; Yarbrough.

Nays — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chisum; Christian; Clark; Cook; Corte; Crabb; Craddick; Crownover; Davis, J.; Delisi; Denny; Driver; Dunnam; Eiland; Elkins; Ellis; Farabee; Gallego; George; Geren; Goodman;

Goolsby; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Junell; Keel; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall; McReynolds; Miller; Morrison; Mowery; Najera; Nixon; Pickett; Pitts; Puente; Ramsay; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Swinford; Talton; Tillery; Truitt; Turner, B.; Uher; Walker; West; Williams; Wise; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Oliveira; Solomons.

Absent — Luna; McClendon; Zbranek.

STATEMENT OF VOTE

I was shown voting yes on Record No. 500. I intended to vote no.

Deshotel

Amendment No. 10 was adopted without objection.

Amendment No. 11

Representative Chisum offered the following amendment to **CSSB 1156**:

AMEND **CSSB 1156**, on page 7, between lines 15 and 16 to insert the following:

(3) "Spouse" means a husband, who is a male, or a wife, who is a female. A member of a civil union or similar relationship entered into in another state between persons of the same sex is not a spouse.

Amendment No. 11 was adopted without objection.

Amendment No. 12

Representative Janek offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** as follows:

(1) In the recital to SECTION 9(a) of the bill (House committee printing, page 24, line 10), strike "Sections 531.02101-531.02106" and substitute "Sections 531.02101-531.02107".

(2) In SECTION 9(a) of the bill, at the end of proposed Section 531.02106, Government Code (House committee printing, page 30, between lines 15 and 16), insert the following:

Sec. 531.02107. AUTHORIZATION FOR EXPANDED MEDICAID COST-SHARING. Notwithstanding any other law, the commissioner may request federal authorization to require all Medicaid recipients to make copayments or comply with other cost-sharing requirements for all services provided under the program in accordance that authorization.

Amendment No. 12 was adopted without objection.

Amendment No. 13

Representative Maxey offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** as follows:

(1) In SECTION 9 of the bill, in added Section 531.02102(a)(1), Government Code (House committee printing, page 25, line 5), strike "three" and substitute "five".

(2) In SECTION 9 of the bill, in added Section 531.02102(a)(2), Government Code (House committee printing, page 25, line 7), strike "three" and substitute "five."

Amendment No. 13 was adopted without objection.

Amendment No. 14

Representative Janek offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** as follows:

(1) In SECTION 9(a) of the bill, in proposed Section 531.02103(a)(11), Government Code (House committee printing, page 27, line 20), strike "and".

(2) In SECTION 9(a) of the bill, in proposed Section 531.02103(a), Government Code (House committee printing, page 27, line 23), between "reimbursement" and ":", insert the following:

: and

(13) any other strategy designed to improve the quality and cost-effectiveness of the Medicaid program

Amendment No. 14 was adopted without objection.

Amendment No. 15

Representative Janek offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** as follows:

(1) In SECTION 10 of the bill, in proposed Section 531.02131(a), Government Code (House Committee printing, page 30, line 26), strike "shall" and substitute "may".

(2) In SECTION 10 of the bill, in proposed Section 531.02131(e), Government Code (House Committee printing, page 31, line 14), strike "required by" and substitute "under".

Amendment No. 15 was adopted without objection.

Amendment No. 16

Representative Janek offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** by striking SECTION 15 of the bill (House committee report, page 33, line 24 through page 37, line 6), renumbering subsequent SECTIONS of the bill accordingly, and making necessary conforming changes to cross-references in SECTION 26(b) of the bill.

Amendment No. 16 was adopted without objection.

Amendment No. 17

Representatives Wohlgemuth and Coleman offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** as follows:

(1) In SECTION 18 of the bill, in proposed Section 533.0021(2)(A), Government Code (House committee printing, page 41, line 18), strike "and".

(2) In SECTION 18 of the bill, in proposed Section 533.0021(2), Government Code (House committee printing, page 41, between lines 22 and 23), insert the following:

(C) develop a sliding scale copayment schedule for recipients based on income and other factors determined by the commissioner; and

Amendment No. 17 was adopted without objection.

Amendment No. 18

Representative Isett offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** in SECTION 6 of the bill by adding the following appropriately numbered Subsections to the SECTION and by renumbering subsequent Subsections of the SECTION accordingly:

() Section 301.104, Labor Code, is amended to read as follows:

Sec. 301.104. ELIGIBILITY. A person is eligible for the refund for wages paid or incurred by the person, during each calendar year for which the refund is claimed, only if:

(1) the wages paid or incurred by the person are for services of an employee who is:

(A) a resident of this state; and

(B) a recipient of:

(i) financial assistance and services in accordance with Chapter 31, Human Resources Code; or

(ii) medical assistance in accordance with Chapter 32, Human Resources Code;

(2) the person satisfies the certification requirements under Section 301.105; and

(3) the person provides and pays for the benefit of the employee a part of the cost of coverage under:

(A) a health plan provided by a health maintenance organization established under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code);

(B) a health benefit plan approved by the commissioner of insurance; ~~[or]~~

(C) a self-funded or self-insured employee welfare benefit plan that provides health benefits and is established in accordance with the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.); or

(D) a medical savings account authorized under the Health Insurance Portability and Accountability Act of 1996 (26 U.S.C. Section 220).

() Section 301.105, Labor Code, is amended to read as follows:

Sec. 301.105. CERTIFICATION. A person is not eligible for the refund for wages paid or incurred by the person unless the person has received a written certification from the commission that the employee is a recipient of financial assistance and services or medical assistance on or before the day the employee begins employment with the person.

() A person may claim a refund under Section 301.104, Labor Code,

as amended by this Act, only for wages paid or incurred on or after the effective date of this Act.

Amendment No. 18 was adopted without objection.

Amendment No. 19

On behalf of Representative Gallego, Representative Junell offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** by adding a new section to read as follows:

(1) SECTION __. The Commissioner of Health and Human Services shall examine the reimbursement methodology for air ambulance services purchased under the medical assistance program and may implement any changes necessary to maintain a viable air ambulance system through the state.

Amendment No. 19 was adopted without objection.

Amendment No. 20

Representative Shields offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION __. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0471 to read as follows:

Sec. 32.0471. FAMILY PLANNING COUNSELING SERVICES; PROVIDER QUALIFICATIONS. Notwithstanding Section 503.056, Occupations Code, the department shall require that a person who provides counseling services related to family planning services under this chapter be a licensed physician or a licensed professional counselor as defined by Section 503.002, Occupations Code.

Amendment No. 20 was withdrawn.

Amendment No. 21

Representative Shields offered the following amendment to **CSSB 1156**:

Amend **CSSB 1156** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION __. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0471 to read as follows:

Sec. 32.0471. REIMBURSEMENT RATE REVIEW FOR FAMILY PLANNING GROUP COUNSELING SERVICES. The board shall periodically review group counseling services regarding family planning provided under this chapter to individuals who are younger than 20 years of age to assess the effectiveness of those services in the prevention of sexually transmitted diseases and unintended pregnancies. If the board determines that group counseling services are not effective, the department shall:

(1) abolish reimbursement for group counseling; or

(2) decrease the reimbursement rate by at least 25 percent.

Amendment No. 21 was withdrawn.

CSSB 1156, as amended, was passed to third reading. (Clark, Craddick, Delisi, Denny, Hamric, Heflin, Hope, Howard, Hupp, Nixon, Talton, and Woolley recorded voting no)

SB 1766 ON SECOND READING
(Sadler - House Sponsor)

SB 1766, A bill to be entitled An Act relating to payment of eligible school district bonds with state and local funds under the existing debt tier of the school finance system.

Representative Sadler moved to postpone consideration of **SB 1766** until 10 a.m. Thursday, May 24.

The motion prevailed without objection.

SB 1785 ON SECOND READING
(Sadler - House Sponsor)

SB 1785, A bill to be entitled An Act relating to the limit on assistance under the state program for assisting school districts with the payment of existing debt.

Representative Sadler moved to postpone consideration of **SB 1785** until 10 a.m. Thursday, May 24.

The motion prevailed without objection.

ADJOURNMENT

Representative Thompson moved that the house adjourn until 10 a.m. today.

The motion prevailed without objection.

The house accordingly, at 12:40 a.m. Tuesday, May 22, adjourned until 10 a.m. today, Tuesday, May 22.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HCR 295 (By Counts), Urging congress to maintain states' authority to regulate the business of insurance.

To Insurance.

HR 1138 (By Pitts), Honoring the memory of Richard G. Schmidt of Palmer.

To Rules & Resolutions.

HR 1140 (By Naishtat, Dukes, and Keel), Honoring Texas women's basketball coach Jody Conradt for coaching in her 1,000th game.

To Rules & Resolutions.

HR 1143 (By West), Congratulating Ollie Jo Wester of Odessa on the occasion of her 70th birthday.

To Rules & Resolutions.

HR 1144 (By McClendon and Martinez Fischer), Honoring Fox Tech High School of San Antonio for outstanding accomplishments.

To Rules & Resolutions.

HR 1145 (By Farabee and Hardcastle), In memory of Dorothy Griffin, Patricia Oliver, Asline Hinostrosa, and Virginia Bean of Burkburnett.

To Rules & Resolutions.

HR 1146 (By Miller), Commemorating the 120th anniversary of Selden Baptist Church in Erath County.

To Rules & Resolutions.

HR 1147 (By B. Turner), Honoring the Lohn School on its receipt of a 2000-2001 National Title I Distinguished School Award from the U.S. Department of Education.

To Rules & Resolutions.

HR 1148 (By Talton), Honoring the National Academic League team of Thompson Intermediate School in Pasadena for placing first in the national finals.

To Rules & Resolutions.

SCR 66 to Rules & Resolutions.

SIGNED BY THE SPEAKER

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

House List No. 60

HB 177, HB 663, HB 815, HB 978, HB 1053, HB 1154, HB 1267, HB 1505, HB 1681, HB 1683, HB 1688, HB 1909, HB 1941, HB 1995, HB 1999, HB 2002, HB 2029, HB 2032, HB 2054, HB 2190, HB 2246, HB 2278, HB 2312, HB 2336, HB 2344, HB 2349, HB 2362, HB 2367, HB 2459, HB 2495, HB 2550, HB 2580, HB 2604, HB 2616, HB 2690, HB 2746, HB 2869, HB 2882, HB 2947, HB 3015, HB 3028, HB 3034, HB 3096, HB 3134, HB 3150, HB 3258, HB 3286, HB 3356, HB 3403, HB 3413, HB 3414, HB 3558, HB 3637, HB 3640, HB 3642, HB 3649, HCR 203, HCR 283, HCR 286

House List No. 61

HB 560, HB 651, HB 1027, HB 1415, HB 1765, HB 2260, HB 2518, HB 2677, HB 3055, HB 3193, HB 3667, HB 3678, HCR 104, HCR 239, HCR 285, HJR 2

Senate List No. 31

SB 133, SB 198, SB 233, SB 261, SB 328, SB 356, SB 415, SB 439, SB 466, SB 545, SB 554, SB 575, SB 620, SB 637, SB 700, SB 731,

**SB 888, SB 925, SB 935, SB 1037, SB 1318, SB 1358, SB 1446, SB 1449,
SB 1574, SCR 46, SCR 61, SCR 63, SJR 47**

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
Monday, May 21, 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 TAKEN THE FOLLOWING OTHER ACTION:

HB 2218

Pursuant to **HCR 291**, the Senate has passed the following **HB 2218** (enrolled version) as amended.

Respectfully,

Betty King
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 21, 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:

HB 156

Homer

SPONSOR: Shapiro

Relating to the punishment for certain offenses under the Texas Controlled Substances Act committed by a person using a child to facilitate the commission of the offense.

HB 323 Oliveira SPONSOR: Lucio
Relating to establishing a center for border economic and enterprise development at The University of Texas at Brownsville.

HB 1566 Morrison SPONSOR: Harris
Relating to the authority of a governmental entity to take emergency possession of a child and to the services provided for the child.

HB 1772 Brimer SPONSOR: Harris
Relating to the approval and financing of sports and community venue projects.
(COMMITTEE SUBSTITUTE)

HB 1862 Eiland SPONSOR: Van de Putte
Relating to the regulation and prompt payment of health care providers under certain health benefit plans; providing penalties.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 2250 Smith SPONSOR: Moncrief
Relating to certain criminal consequences of certain previous intoxication convictions.
(AMENDED)

HB 2839 Dukes SPONSOR: Carona
Relating to energy efficiency programs developed by the energy office.

HB 2950 Chavez SPONSOR: Nelson
Relating to the regulation of certain abusable volatile chemicals.

HJR 5 Solomons SPONSOR: Shapleigh
Proposing a constitutional amendment prescribing requirements for imposing a lien for work and material used in the construction, repair, or renovation of improvements on residential homestead property and including the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property as a debt on homestead property protected from a forced sale.
(COMMITTEE SUBSTITUTE)

Respectfully,

Betty King
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Monday, May 21, 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 154** Thompson SPONSOR: Gallegos
Relating to the personal needs allowance for certain Medicaid recipients who are residents of long-term care facilities.
(AMENDED)
- HB 299** Gallego SPONSOR: Shapleigh
Relating to speed limits on state highways.
(AMENDED)
- HB 631** Turner, Sylvester SPONSOR: Whitmire
Relating to fines for illegal dumping.
(AMENDED)
- HB 824** Ellis, Dan SPONSOR: Bernsen
Relating to the exemption from ad valorem taxation of property owned by certain nonprofit county fair associations.
(AMENDED)
- HB 1096** Luna, Vilma SPONSOR: Gallegos
Relating to the creation of fire control, prevention, and emergency medical services districts by certain municipalities.
(AMENDED)
- HB 1118** Goodman SPONSOR: West, Royce
Relating to the adjudication and disposition of juvenile conduct and the administration of the juvenile justice system.
(AMENDED)
- HB 1121** Turner, Bob SPONSOR: West, Royce
Relating to eligibility for enrollment in certain law enforcement training programs.
(AMENDED)
- HB 1183** Capelo SPONSOR: Carona
Relating to the regulation of surgical assistants; granting rulemaking authority; providing an administrative penalty.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 1200** Brimer SPONSOR: Harris
Relating to the enactment of the Texas Economic Development Act, authorizing certain ad valorem tax incentives for economic development, including authorizing school districts to provide tax relief for certain corporations and limited liability companies that make large investments that create jobs in this state, to authorizing the imposition of certain impact fees, and to continuing the Property Redevelopment and Tax Abatement Act.
(AMENDED)
- HB 1203** Brimer SPONSOR: Fraser
Relating to the purchase of certain insurance coverage by state agencies and to workers' compensation insurance benefits provided by certain state agencies.
(AMENDED)
- HB 1234** Naishtat SPONSOR: Zaffirini
Relating to the presence of certain advocates during forensic medical examinations of alleged victims of sexual assaults.
(AMENDED)

- HB 1784** Cook SPONSOR: Ogden
Relating to the ratification, creation, administration, powers, duties, operation, and financing of groundwater conservation districts in and coordinated management of groundwater resources for the central Carrizo-Wilcox area.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 1925** Haggerty SPONSOR: Staples
Relating to the creation of an offense prohibiting certain weapons within 1,000 feet of a place of execution.
(AMENDED)
- HB 2159** Thompson SPONSOR: Carona
Relating to premium rates and minimum reserves for credit life and accident and health insurance.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 2383** Allen SPONSOR: Madla
Relating to certain grounds for the denial of an application for, the refusal to renew, and the suspension of a license as a licensed chemical dependency counselor and for the restriction of a counselor intern.
(AMENDED)
- HB 2522** Wilson SPONSOR: Armbrister
Relating to requiring the Texas Department of Transportation to establish and maintain a state airport in Central Texas.
(AMENDED)
- HB 2855** Kuempel SPONSOR: Wentworth
Relating to the ratification of the creation of and to the administration, powers, duties, operation, taxing authority, and financing of the Southeast Trinity Groundwater Conservation District.
(AMENDED)
- HB 3195** Howard SPONSOR: Brown, J. E. "Buster"
Relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend County Municipal Utility District Number 134 and to the authorization of bonds and the levy of taxes; providing civil penalties.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 3312** Dunnam SPONSOR: Moncrief
Relating to establishing a pilot program for state emergency medical dispatch resource centers.
(AMENDED)
- HB 3329** Averitt SPONSOR: Brown, J. E. "Buster"
Relating to tax-exempt private activity bonds.
(AMENDED)
- HB 3591** Hunter SPONSOR: Bivins
Relating to including certain libraries of nonprofit corporations in the TexShare consortium and authorizing grants from the telecommunications infrastructure fund to those libraries.
(AMENDED)

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 303

Senate Conferees: Lucio - Chair/Bernsen/Harris/Wentworth/West, Royce

SB 1074

Senate Conferees: West, Royce - Chair/Ellis, Rodney/Lindsay/Ogden/Whitmire

SB 1432

Senate Conferees: West, Royce - Chair/Ogden/Shapiro/Van de Putte/Zaffirini

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 772

Senate Conferees: Armbrister - Chair/Brown, J. E. "Buster"/Lucio/Moncrief/Staples

Respectfully,

Betty King

Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Monday, May 21, 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 116

Najera

SPONSOR: Truan

Relating to registration with the Selective Service System of certain applicants for a driver's license.

(COMMITTEE SUBSTITUTE)

HB 2087

Clark

SPONSOR: Haywood

Relating to civil liability for the manufacture of methamphetamine.

HCR 92

King, Tracy

SPONSOR: Zaffirini

In memory of former Texas first lady Janey Slaughter Briscoe.

HCR 137

King, Tracy

SPONSOR: Zaffirini

In memory of Judge Ross E. Doughty, Jr., of Uvalde.

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 214

Senate Conferees: Bernsen - Chair/Brown, J. E. "Buster"/Duncan/Jackson/Wentworth

SB 768

Senate Conferees: Madla - Chair/Harris/Lucio/Shapleigh/Van de Putte

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 695

Senate Conferees: Wentworth - Chair/Carona/Fraser/Shapleigh/Staples

HB 757

Senate Conferees: Bernsen - Chair/Carona/Nelson/Shapleigh/Sibley

Respectfully,

Betty King

Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Monday, May 21, 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 59

Puente

SPONSOR: West, Royce

Relating to making a voter information guide for judicial elections available to the public on the Internet.

HB 476

Naishtat

SPONSOR: Zaffirini

Relating to incentive programs and employment services to benefit certain recipients of financial assistance.

HB 546

Noriega

SPONSOR: Gallegos

Relating to judicial training.

HB 1649

Gallego

SPONSOR: Staples

Relating to the organization and duties of the Board of Pardons and Paroles and the consequences of the revocation of parole or mandatory supervision.

HB 2794 Eiland SPONSOR: Jackson
 Relating to the placement of dredged material on beaches adjacent to navigation inlets and channels.
 (AMENDED)

HB 3038 Isett SPONSOR: Nelson
 Relating to the employment of Medicaid recipients and to the enrollment of Medicaid recipients and state child health plan enrollees in certain group health benefit plans.

HB 3231 Morrison SPONSOR: Armbrister
 Relating to the creation, administration, powers, duties, operation, and financing of the Pecan Valley Groundwater Conservation District.

HCR 293 Goolsby SPONSOR: Carona
 Congratulating Stephen Arthur and Eugenia Marie Gonzalez of Pflugerville on the birth of their son, Christian Alexander Gonzalez.

Respectfully,

Betty King
Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE
 SENATE CHAMBER
 Austin, Texas
 Monday, May 21, 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 840 Hinojosa SPONSOR: West, Royce
 Relating to a defendant's waiver of arraignment.

HB 1628 Deshotel SPONSOR: Bernsen
 Relating to the transfer of certain state property from the Texas Department of Mental Health and Mental Retardation to Spindletop MHMR Services.

HB 2138 Marchant SPONSOR: Lindsay
 Relating to the confidentiality of the location or sale price of certain real property sold or purchased by the state.

HB 2204 Gutierrez SPONSOR: Moncrief
 Relating to the construction of facilities and trails for bicycles, electric bicycles, and pedestrians and to the safe operation of bicycles and electric bicycles.
 (COMMITTEE SUBSTITUTE)

HB 3483 Ramsay SPONSOR: Sibley
Relating to the creation, powers, and duties of the Clean Coal Technology Council.

HB 3623 Flores SPONSOR: Shapleigh
Relating to the transfer of certain underused real property owned or controlled by the state to political subdivisions for use as affordable and accessible housing.

HB 3659 Counts SPONSOR: Fraser
Relating to the creation, administration, powers, duties, operation, and financing of the Wes-Tex Groundwater Conservation District.

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 113
Senate Conferees: Moncrief - Chair/Bernsen/Duncan/Ogden/Van de Putte

SB 342
Senate Conferees: Shapiro - Chair/Armbrister/Barrientos/Madla/Shapleigh

SB 510
Senate Conferees: Armbrister - Chair/Harris/Jackson/Lindsay/Shapiro

SB 1320
Senate Conferees: Staples - Chair/Fraser/Haywood/Madla/Van de Putte

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 2
Senate Conferees: Shapiro - Chair/Armbrister/Fraser/Shapleigh/Truan

HB 236
Senate Conferees: Ellis, Rodney - Chair/Bivins/Duncan/Moncrief/Whitmire

HB 658
Senate Conferees: Ellis, Rodney - Chair/Duncan/Harris/Ogden/Zaffirini

HJR 97
Senate Conferees: Ellis, Rodney - Chair/Duncan/Fraser/Harris/Zaffirini

Respectfully,

Betty King
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 18Appropriations - **SB 1837**Business & Industry - **SB 1834**Civil Practices - **SB 1288, SB 1654**Criminal Jurisprudence - **SB 1313**Economic Development - **SB 444, SB 1732**Elections - **SB 1309**Energy Resources - **SB 1825**Higher Education - **SB 903, SB 1840**Human Services - **SB 1839**Insurance - **SB 427, SB 957**Judicial Affairs - **SB 129, SB 1808, SJR 3**Juvenile Justice & Family Issues - **SB 478**Natural Resources - **HR 983, SB 2**Pensions & Investments - **HR 1077, SB 983, SB 1317, SB 1569**Public Education - **SB 26, SB 104, SB 562, SB 824, SB 949, SB 1102**Public Health - **SB 11, SB 144, SB 279, SB 514, SB 791, SB 876, SB 1050, SB 1051, SB 1299**State Affairs - **SB 228, SB 971, SB 1182, SB 1396**State Recreational Resources - **SCR 51**Transportation - **SB 195, SB 409, SB 456, SB 1109, SB 1214, SB 1367, SB 1788, SB 1831**Urban Affairs - **SB 322, SB 557, SB 1176, SB 1564, SB 1760, SJR 50****May 19**Civil Practices - **SB 1106**Corrections - **SB 107**Elections - **SB 1311**Judicial Affairs - **SB 1434**Juvenile Justice & Family Issues - **SB 70**Natural Resources - **SB 1821**Transportation - **SB 224, SB 246, SB 465, SB 1128**Ways & Means - **SB 174, SJR 6****May 20**Pensions & Investments - **SB 1545**Transportation - **SB 1353, SB 1516**

ENROLLED

May 18 - HB 42, HB 65, HB 73, HB 84, HB 102, HB 122, HB 166, HB 177, HB 200, HB 335, HB 371, HB 445, HB 457, HB 459, HB 490, HB 495, HB 501, HB 510, HB 534, HB 535, HB 602, HB 663, HB 741, HB 815, HB 819, HB 858, HB 946, HB 947, HB 952, HB 969, HB 978, HB 998, HB 1011, HB 1015, HB 1037, HB 1038, HB 1053, HB 1073, HB 1088, HB 1091, HB 1099, HB 1110, HB 1113, HB 1154, HB 1187, HB 1196, HB 1220, HB 1254, HB 1267, HB 1307, HB 1420, HB 1469, HB 1505, HB 1515, HB 1535, HB 1591, HB 1651, HB 1658, HB 1680, HB 1681, HB 1683, HB 1688, HB 1718, HB 1765, HB 1909, HB 1941, HB 1995, HB 1999, HB 2002, HB 2029, HB 2032, HB 2054, HB 2091, HB 2092, HB 2103, HB 2112, HB 2143, HB 2185, HB 2190, HB 2246, HB 2260, HB 2278, HB 2301, HB 2312, HB 2336, HB 2344, HB 2349, HB 2362, HB 2367, HB 2459, HB 2494, HB 2495, HB 2550, HB 2580, HB 2604, HB 2616, HB 2628, HB 2690, HB 2746, HB 2828, HB 2853, HB 2869, HB 2882, HB 2947, HB 2959, HB 3015, HB 3028, HB 3034, HB 3055, HB 3096, HB 3134, HB 3150, HB 3193, HB 3258, HB 3286, HB 3309, HB 3356, HB 3403, HB 3413, HB 3414, HB 3421, HB 3524, HB 3558, HB 3626, HB 3637, HB 3640, HB 3642, HB 3649, HB 3662, HB 3666, HB 3674, HCR 38, HCR 105, HCR 203, HCR 239, HCR 283, HCR 286

May 19 - HB 560, HB 651, HB 1027, HB 1415, HB 2518, HB 2677, HB 3667, HB 3678, HCR 104, HCR 285, HJR 2

SENT TO THE GOVERNOR

May 18 - 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 1506, HB 1718, HB 1837, HCR 105, HCR 291

SIGNED BY THE GOVERNOR

May 18 - HB 317, HB 551, HB 1665, HCR 6, HCR 291

May 19 - HCR 20, HCR 22, HCR 23, HCR 32, HCR 44, HCR 45, HCR 46, HCR 47, HCR 53, HCR 69, HCR 70, HCR 80, HCR 127, HCR 141, HCR 170, HCR 173