

HOUSE JOURNAL

SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-NINTH DAY (CONTINUED) — FRIDAY, MAY 23, 1997

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 498).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

The invocation was offered by Representative Rabuck, as follows:

Dear God, help us this day to move forward towards a common goal—a better and brighter future for our blessed Texas.

Help us to realize our shortcomings and capitalize on our strengths, realizing that the common good is your will. Guide us this day to do your will—nothing more, nothing less, and nothing else.

Through Christ our Lord. Amen.

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).

(Gallego in the chair)

CAPITOL PHYSICIAN

The chair recognized Representative Kubiak who presented Dr. Henry Boehm of Brenham as the "Doctor for the Day."

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

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 63).

**HR 1063 - ADOPTED
(by Naishtat)**

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 1063**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

HR 1063, Congratulating Jerry M. Carlson on the occasion of his retirement.

HR 1063 was read and was adopted without objection.

On motion of Representative Maxey, the names of all the members of the house were added to **HR 1063** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Wilson, who introduced members of Reverend Wilbert Martin's family.

HR 603, in memory of the Reverend Wilbert Martin, having been previously adopted, was read.

**HR 1064 - ADOPTED
(by Madden)**

Representative Madden moved to suspend all necessary rules to take up and consider at this time **HR 1064**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

HR 1064, Honoring Crystal Renee Elkins on her graduation from Central Christian Academy in Houston.

HR 1064 was read and was adopted without objection.

On motion of Representative Woolley, the names of all the members of the house were added to **HR 1064** as signers thereof.

**HR 1060 - ADOPTED
(by Carter)**

Representative Carter moved to suspend all necessary rules to take up and consider at this time **HR 1060**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

HR 1060, Commending the 9-1-1 for Kids program.

HR 1060 was read and was adopted without objection.

HR 1052 - ADOPTED
(by Puente)

Representative Puente moved to suspend all necessary rules to take up and consider at this time **HR 1052**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

HR 1052, Honoring Sandra Kay Rodesney for her many years of service to the state.

HR 1052 was read and was adopted without objection.

INTRODUCTION OF GUEST

The chair recognized Representative Puente, who introduced Sandra Kay Rodesney.

HCR 267 - ADOPTED
(by Gallego)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HCR 267**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

HCR 267, Congratulating Pete and Elena Gallego on the occasion of their 50th wedding anniversary.

HCR 267 was read and was adopted without objection.

On motion of Representatives Uher and Crabb, the names of all the members of the house were added to **HCR 267** as signers thereof.

INTRODUCTION OF GUESTS

The chair introduced his parents, Pete and Elena Gallego.

(Speaker in the chair)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 31).

HR 1062 - ADOPTED
(by Davis)

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

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1062, Congratulating Valedictorian Jose Alejandro Longoria on his graduation from Mary Carroll High School.

HR 1062 was adopted without objection.

HCR 293 - ADOPTED
(by B. Turner)

Representative B. Turner moved to suspend all necessary rules to take up and consider at this time **HCR 293**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 293

WHEREAS, **HB 1145** has been adopted by the house of representatives and the senate; and

WHEREAS, The bill contains technical errors that need correction; now, therefore, be it

RESOLVED, That the enrolling clerk of the house of representatives be hereby instructed to make the following corrections:

(1) In Section 1 of the bill, in Section 151.002(f), Agriculture Code, as added by the bill, strike "Subsections (d) and (e)" and substitute "Subsection (d)".

(2) In Section 1 of the bill, in Section 151.003(a), Agriculture Code, as added by the bill, strike "or (e)".

(3) In Section 1 of the bill, in Section 151.003(c), Agriculture Code, as added by the bill, strike "or (e)".

HCR 293 was adopted without objection.

HR 1066 - ADOPTED
(by Goolsby)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 1066**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1066

WHEREAS, It has long been the custom of the House of Representatives of the State of Texas to honor the children of its members by electing them to the office of mascot; and

WHEREAS, A roster of mascot candidates eligible for this special recognition under the rules of this house has been compiled; now, therefore, be it

RESOLVED, That the House of Representatives of the 75th Texas Legislature hereby elect the following children of house members to the honorary office of mascot:

Lauren Christian and Lindsey Christian, children of Representative Wayne Christian;

Kevin Clark, son of Representative Ron Clark;

Jenna Marie Cook and Robert Taylor Cook, children of Representative Robbie Cook;

Frank J. Corte III, son of Representative Frank Corte;

Caroline Virginia Culberson, daughter of Representative John Culberson; Mason Vance Dunnam, Rachel Michelle Dunnam, and Lauren Elizabeth Dunnam, children of Representative Jim Dunnam;

Eric Daniel Flores and Ismael Flores, Jr., sons of Representative Kino Flores;

Joaquin Angel Garcia and Fernando Cesar Garcia, sons of Representative Domingo Garcia;

Enrico Andres Gonzalez, son of Representative Vilma Luna;

Cassie Kamel Hickman, daughter of Representative Ted Kamel;

Johnathan Simcha Weisfeld Hinojosa, son of Representative Juan Hinojosa;

Alexander Gratia Hupp, son of Representative Suzanna Gratia Hupp;

Nicholas Mark Isett, Joan LaRee Isett, Victoria Louise Isett, and Alexander Hawkins Isett, children of Representative Carl Isett;

Sean Thornton Keel and Travis Bryan Keel, sons of Representative Terry Keel;

Katelyn Marie King, daughter of Representative Tracy King;

Ben Krusee, son of Representative Mike Krusee;

Thomas Merritt II, son of Representative Tommy Merritt;

Christina D'Marie Pickett, daughter of Representative Joseph Pickett;

Aren Davis Raymond, son of Representative Richard Raymond;

Arthur C. Reyna III and Adrian R. Reyna, children of Representative Arthur Reyna;

Spencer Thomas Smith and Sawyer Harold Smith, sons of Representative Todd Smith;

Emily Caroline Stiles, daughter of Representative Mark Stiles;

Mark Edward Williams, son of Representative Tommy Williams; and

Mark Riborg Wise, Zachary August Wise, and Miguel D. Wise III, sons of Representative Miguel Wise; and, be it further

RESOLVED, That pictures of the mascots appear on the picture panel of the Texas House of Representatives and that an official certificate be prepared for each mascot as a memento of this honor.

HR 1066 was adopted without objection.

HR 1067 - ADOPTED
(by Goolsby)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 1067**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1067

WHEREAS, It has long been the custom of the House of Representatives of the State of Texas to honor the children of its members by electing them to the office of mascot; and

WHEREAS, Since 1983, the House of Representatives has also bestowed special recognition on the grandchildren of its members by naming them the honorary mascots of this house; and

WHEREAS, A roster of members' grandchildren has been compiled for this special designation; now, therefore, be it

RESOLVED, That the House of Representatives of the 75th Texas

Legislature hereby designate the following grandchildren of house members as honorary mascots:

Michael Lynn Carey, Jr., grandson of Representative Ray Allen;
 Morgan Gwynne Sheppard and Taylor Arlene Werner, granddaughters of Representative Kim Brimer;
 Geoffrey Bryant Kauffman, grandson of Representative Joe Crabb;
 Trevor Allen Nelson and Rachel Louise O'Neal, grandchildren of Representative Harryette Ehrhardt;
 Jacob Malcolm Kennedy and Jordan Jamal Giddings, grandsons of Representative Helen Giddings;
 William Pilar Dismang, Jr., grandson of Representative Toby Goodman;
 Iris Isabelle Gutierrez, granddaughter of Representative Roberto Gutierrez;
 Amanda Lee Hamric, granddaughter of Representative Peggy Hamric;
 Elizabeth Elaine Hedrick and John "Jack" Westhues Evans, grandchildren of Representative Fred Hill;
 Jonathan Wyatt McReynolds, grandson of Representative Jim McReynolds;
 Anna Pei Zhen Heffernan, granddaughter of Representative Anna Mowery;
 Victor Olivo IV, grandson of Representative Dora Olivo;
 William David Schmidt, Amanda Nicole Hawkins, and Susan Lucille Schmidt, grandchildren of Representative Sue Palmer;
 Christian Gabriel Reyna, grandson of Representative Elvira Reyna;
 Eric "Ben" Seaman, Cody "Scott" Seaman, Melissa Rene Seaman, Mary Ellen Seaman, and John Ryan Seaman, grandchildren of Representative Gene Seaman;
 Lily Elaine Orona, granddaughter of Representative Robert Talton;
 Bailey Devin Turner, granddaughter of Representative Bob Turner; and
 Lexi Shay Satterwhite and Baylee Ryan Bennington, grandchildren of Representative G. E. "Buddy" West; and, be it further

RESOLVED, That the names of the honorary mascots and their grandparents be placed on the picture panel of the House of Representatives of the 75th Texas Legislature; and, be it further

RESOLVED, That an official certificate be prepared for each honorary mascot as a memento of this honor.

HR 1067 was adopted without objection.

HR 1068 - ADOPTED
(by Goolsby)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 1068**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1068

WHEREAS, It has long been the custom of the Texas House of Representatives to honor the children and grandchildren of its members by electing them to the office of mascot; and

WHEREAS, Following each session, a composite photograph is prepared and hung in the house chamber to commemorate the members and mascots who served in that legislative session; and

WHEREAS, In accordance with procedures of the House Administration Committee, those members who are elected to office by special election during the interim following a regular session are entitled to be included in a supplemental composite photograph, as are their children and grandchildren who have been selected to serve as honorary mascots; and

WHEREAS, A supplemental composite has not yet been prepared for the interim periods that occurred from the end of the 68th Regular Session to the beginning of the 75th Legislative Session, and the preparation of such a photograph would lend suitable recognition to those individuals who have so ably served this state, as well as their children and grandchildren; now, therefore, be it

RESOLVED, That the House of Representatives of the 75th Texas Legislature hereby authorize the House Administration Committee to name and place mascots on the supplemental composite photograph being prepared for the period beginning May 31, 1983, and extending through January 13, 1997; and, be it further

RESOLVED, That an official copy of this resolution be prepared for the chair of the House Administration Committee.

HR 1068 was adopted without objection.

HR 1070 - ADOPTED
(by Craddick)

Representative Craddick moved to suspend all necessary rules to take up and consider at this time **HR 1070**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1070, In memory of Mary Oleene Starkey Tatum.

HR 1070 was unanimously adopted by a rising vote.

(Speaker pro tempore in the chair)

HR 482 - ADOPTED
(by Holzheuser)

Representative Holzheuser moved to suspend all necessary rules to take up and consider at this time **HR 482**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

HR 482, In memory of Dennis M. O'Connor.

HR 482 was read and was unanimously adopted by a rising vote.

On motion of Representative Jackson, the names of all the members of the house were added to **HR 482** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Holzheuser, who introduced the grandchildren of Dennis M. O'Conner.

CONGRATULATORY AND MEMORIAL CALENDAR

The chair laid before the house the following memorial resolutions:

HCR 264 (by Bonnen), In memory of Sergeant Millard "Dee" Campbell.

HR 831 (by Siebert), In memory of Elizabeth Daley Cheever.

HR 834 (by Place), In memory of Francis C. Ward.

HR 841 (by Hunter and Siebert), In memory of Cleon Thornton.

HR 857 (by Haggerty), In memory of John P. Rubocki.

HR 861 (by Place), In memory of Helen Graves.

HR 866 (by Sadler), In memory of Margaret Houston Tillery.

HR 869 (by Staples), In memory of Thomas Boroughs Moseley.

HR 873 (by McClendon), In memory of Jamon Williams.

HR 876 (by Kubiak), In memory of Jean Kubiak Cundieff.

HR 882 (by Uher), In memory of Jolene Snokhous.

HR 887 (by Alexander), In memory of officers Kobler C. Winn, Larry Hobson, Bennie R. Everett, and Charlie Fields, Sr.

HR 895 (by Van de Putte, McClendon, Puente, Hernandez, Alvarado, et al.), In memory of San Antonio Firefighter Jesse F. Bricker.

HR 921 (by Corte), In memory of Letha I. James Enderle.

HR 929 (by McClendon), In memory of Adell Doan Van de Putte.

HR 1002 (by Counts), In memory of J. M. Kayser.

The resolutions were unanimously adopted by a rising vote.

The chair laid before the house the following congratulatory resolutions:

HCR 249 (by Talton), Honoring the members of the 533rd Anti-aircraft Battalion on the occasion of their 18th reunion.

HCR 254 was previously adopted.

HCR 255 was withdrawn.

HCR 261 (by Patterson), Honoring the late Bill Boyd on his induction into the Texas Western Swing Hall of Fame.

HCR 267 was previously adopted.

HCR 269 (by Goodman), Commending the Texas Department of Public Safety for its effective handling of the Republic of Texas incident in Fort Davis.

HCR 272 (by Jackson), Designating June 9, 1997, International Space University Day in the State of Texas.

HCR 274 (by G. Lewis), Recognizing the Tarrant County Employment Network for its service to the citizens of Tarrant County.

HCR 277 (by J. Jones), Congratulating Willie Lee Campbell Glass on her receipt of an Iowa State University alumni award.

HCR 280 (by West), Commemorating the birth of Tiffany Sheree Satterwhite.

SCR 88 (Sadler - House Sponsor), Recognizing Sabrina McAfee as a most distinguished Texas heroine.

SCR 97 (Bosse - House Sponsor), Congratulating the Robert E. Lee High School Class of 1997.

SCR 98 (Krusee - House Sponsor), Congratulating the City of Georgetown on its designation as a 1997 Great American Main Street City.

HR 820 (by Clark), Honoring Willie "Bill" and Jewell Dean Rumsey on the occasion of their 50th wedding anniversary.

HR 829 (by Crabb), Congratulating Midshipman David A. Benham on his receipt of the Citation and Medal Award.

HR 832 (by Kamel), Commemorating the 1997 East Texas State Fair Senior Citizens Day.

HR 833 (by Gutierrez and Flores), Honoring Rafaela "Fela" Chapa for her contributions to her family and the Rio Grande Valley.

HR 838 (by Chisum), Commemorating the 90th anniversary of the First Baptist Church of Pampa.

HR 839 (by Chisum), Commemorating the centennial of the First United Methodist Church of Miami.

HR 845 (by Solis), Congratulating Becky Lee Meza.

HR 849 (by R. Lewis), Congratulating Richard Drake on the occasion of his retirement as adult probation chief of the First Judicial District Supervision and Correction Department.

HR 850 (by Kubiak), Commemorating Polish president Lech Walesa's visit to Texas in October 1996.

HR 851 (by Patterson), Congratulating Peter and Earlene Winkfein on the occasion of their 50th wedding anniversary.

HR 853 (by Serna, Moreno, Haggerty, Pickett, and Chavez), Recognizing the Tigua Indians for their contributions to Texas.

HR 879 (by Gutierrez), Congratulating Willie Charles Briscoe on his graduation from Texas Southern University's Thurgood Marshall School of Law.

HR 884 (by Kubiak), Commemorating the 50th anniversary of radio station KWHI.

HR 892 was withdrawn.

HR 897 (by Place), Congratulating the Hamilton High School golf team on winning the 1997 Class 2A State Championship.

HR 898 (by Isett), Congratulating Gloria Zapata on her noteworthy performance at the Texas Career and Technology Education Awards Program.

HR 899 (by Isett), Congratulating Michael Hewett on his noteworthy performance at the Texas Career and Technology Education Awards Program.

HR 900 (by Isett), Congratulating John Shaw on his receipt of an award from the Texas Career and Technology Education Awards Program.

HR 901 (by Isett), Congratulating Corey Nunley on his noteworthy performance at the Texas Career and Technology Education Awards Program.

HR 910 (by Gray and Eiland), Congratulating Joe C. Blackshear on his receipt of the 1997 People of Vision Award.

HR 911 (by Gray and Eiland), Congratulating Dr. Janice K. Smith on her receipt of the Rabbi Henry Cohen Humanitarian Award.

HR 913 (by G. Lewis), Honoring Michelle Clark.

HR 914 (by G. Lewis), Congratulating Dr. Jennifer Giddings Brooks on receiving the 1997 Outstanding Women of Fort Worth award.

HR 915 (by G. Lewis), Honoring Estellar Lee Embry Belcher.

HR 916 (by G. Lewis), Honoring Shannon Fletcher.

HR 917 (by G. Lewis), Congratulating Opal Roland Lee on being named one of 1997's Outstanding Women of Fort Worth.

HR 918 (by G. Lewis), Congratulating Anna Diaz on her completion of Phillips Academy's Math and Science for Minority Students (MS)² program.

HR 919 (by G. Lewis), Congratulating Karina Hernandez on her completion of Phillips Academy's Math and Science for Minority Students (MS)² program.

HR 920 (by G. Lewis), Congratulating Carrie Jean Tunson on being named an Outstanding Woman of Fort Worth by the Fort Worth Commission on the Status of Women.

HR 922 (by Kamel), Recognizing the many achievements of the Life Organ Bank of East Texas.

HR 924 (by Kubiak), Honoring Major General John H. Bailey II on the occasion of his retirement from the Texas State Guard.

HR 927 was previously adopted.

HR 928 (by McClendon), Congratulating Cindy Wirz on her graduation from Our Lady of the Lake University.

HR 930 (by McClendon), Honoring Sergeant Eddie Pinchback on receiving the Outstanding Texan Award from the Texas Legislative Black Caucus.

HR 931 (by McClendon), Honoring Charles C. Andrews, Jr., on receiving an Outstanding Texan Award from the Texas Legislative Black Caucus.

HR 932 (by McClendon), Commending Superintendent Clem W. Steward and Carrie N. Steward.

HR 933 (by McClendon), Congratulating Willie A. Mitchell on receiving the Outstanding Texan Award from the Texas Legislative Black Caucus.

HR 934 (by McClendon), Celebrating the birth of Marissa Brooke Elder.

HR 935 (by McClendon), Honoring Robert A. Herrera.

HR 936 (by McClendon), Honoring Bill Thornton.

HR 937 (by McClendon), Congratulating Lorraine Reagan on her receipt of an Outstanding Texan Award for professional service from the Texas Legislative Black Caucus.

HR 938 (by McClendon), Congratulating Betty Lewis Williams on her receipt of an Outstanding Texan Award from the Texas Legislative Black Caucus.

HR 939 (by McClendon), Honoring David Arevalo.

HR 940 (by McClendon), Honoring Oscar L. Vicks.

HR 941 (by McClendon), Honoring Joel V. Williams.

HR 942 (by McClendon), Honoring Dolores Lott.

HR 943 (by McClendon), Honoring Mario Salas.

HR 944 (by McClendon), Honoring Byron Miller.

HR 945 (by McClendon), Honoring Nancy S. Bohman.

HR 946 (by McClendon), Honoring Bob Ross.

HR 947 (by McClendon), Honoring Jo Ann McCall on receiving the Outstanding Texan Award from the Texas Legislative Black Caucus.

HR 949 (by Bonnen), Congratulating Winston and Nell Fuller on the occasion of their birthdays and their 33rd wedding anniversary.

HR 951 (by Keel), Recognizing that JPI Texas Development, Inc., has named its property "Ward's Point."

HR 952 (by West), Commemorating the 25th anniversary of The University of Texas of the Permian Basin.

HR 954 (by Gallego), Congratulating Barbara Dorris on her retirement.

HR 955 (by Gallego), Commending Glass Elementary School.

HR 956 (by Gallego), Congratulating Patrick Francis and Kristi Francis on the birth of their first child, Joseph Callaway Francis.

HR 957 (by Gallego), Commending Apache Elementary School.

HR 958 (by Gallego), Commending Austin Elementary School.

HR 959 (by Gallego), Commending Fort Stockton Intermediate School.

HR 960 (by Gallego), Commending Lee Elementary School.

HR 961 (by Gallego), Commending Dirks-Anderson Elementary School.

HR 962 (by Gallego), Commending Comanche Elementary School.

HR 963 (by Gallego), Commending Seco Mines Elementary School.

HR 964 (by Gallego), Commending Marfa Elementary School.

HR 965 (by Gallego), Commending Kirchner Elementary School.

HR 966 (by Gallego), Commending Ray Darr Elementary School.

HR 967 (by Gallego), Commending Rosita Valley Elementary School.

HR 968 (by Gallego), Commending Graves Elementary School.

HR 969 (by Gallego), Commending Alpine Elementary School.

HR 975 (by Grusendorf), Congratulating South Davis Elementary School on their selection as a finalist for the 1997 Governor's Awards for Environmental Excellence.

HR 980 (by Puente), Recognizing students receiving scholarships to San Antonio area Catholic high schools.

HR 981 (by Corte), Congratulating Michael Wade and Jeannine Kay Campion on the birth of their first child, Thomas Mitchell Campion.

HR 982 (by Dukes), Commemorating the recent visit to the Capitol by students from Austin's Dobie Middle School.

HR 983 (by Davis), Congratulating Duncanville High School students on taking first place honors in the 11th annual American Set a Good Example Contest.

HR 986 (by West), Recognizing Permian High School as a finalist for the 1997 Governor's Awards for Environmental Excellence.

HR 990 (by G. Lewis), Honoring Pamela Dunlop Gates for her service to the community.

HR 994 (by Raymond), Honoring Albert Leonard Sodrok for his public service.

HR 996 (by J. Jones), Honoring Eucolia Erby, Sr., for his contributions to the community.

HR 998 (by Holzheuser), Congratulating William S. and Betty Dickson Clements Fly on their 50th wedding anniversary.

HR 999 was previously adopted.

HR 1000 was previously adopted.

HR 1001 (by Davis), Commemorating the Ector High School basketball team's 1972 Class 3A state championship.

HR 1003 (by West), Recognizing Ireland Magnet Elementary School as a finalist for the 1997 Governor's Awards for Environmental Excellence.

The resolutions were adopted without objection.

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR
LOCAL CALENDAR
SECOND READING

The following bills were laid before the house, read second time, and passed to third reading (members registering votes are shown following the caption):

SB 711 (Goodman - House Sponsor), A bill to be entitled An Act relating to the creation of municipal courts of record in Dalworthington Gardens.

CONSENT CALENDAR
SECOND READING

The following bills were laid before the house, read second time, and passed to third reading (members registering votes are shown following the caption):

SB 23 (Jackson - House Sponsor), A bill to be entitled An Act relating to the boundaries, confirmation election, and taxing authority of the Clear Creek Watershed Regional Flood Control District.

SB 118 (Naishtat - House Sponsor), A bill to be entitled An Act relating to placement of certain children in certain long-term care institutions.

Amendment No. 1 (Committee Amendment No. 1)

Representative Naishtat offered the following committee amendment to **SB 118**:

Amend **SB 118** as follows:

(1) On page 2, line 23 substitute the following language for Sec. 242.802(c): (c) Not later than the third day after the date a child with a developmental disability is initially placed in an institution, the institution shall notify:

(1) the community resource coordination group for the community in which the institution is located, if any;

(2) if the child is at least three years of age, the school district for the area in which the institution is located; and

(3) if the child is less than three years of age, the local early intervention program for the area in which the institution is located.

(2) On page 3, line 5 delete Sec. 242.803.

Amendment No. 1 was adopted without objection.

SB 167 (Smith - House Sponsor), A bill to be entitled An Act relating to the offense of failing to pay the wages of an employee.

SB 216 was withdrawn.

SB 247 (Culberson - House Sponsor), A bill to be entitled An Act relating to compulsory attendance in public schools.

Amendment No. 1 (Committee Amendment No. 1)

Representative Culberson offered the following committee amendment to **SB 247**:

Amend **SB 247** by inserting the following new sections, appropriately numbered, and renumbering the subsequent sections appropriately:

SECTION _____. Section 25.095, Education Code, is amended to read as follows:

Sec. 25.095. WARNING NOTICE. (a) A school district shall notify a student's parent in writing if:

(1) ~~[;]~~ in a six-month period, the student has been absent without an excuse five times for any part of the day; or

(2) in a four-week period, the student has been absent without an excuse two times for any part of the day.

(b) The notice must state that if the student is absent without an excuse for 10 or more days or parts of days in a six-month period or for three or more days or parts of days in a four-week period:

(1) the student's parent is subject to prosecution under Section 25.093; and

(2) the student is subject to prosecution under Section 25.094.

(c) ~~[(b)]~~ Notice is not required under this section if the student is a party to a juvenile court proceeding for conduct described by Section 51.03(b)(2), Family Code.

(d) ~~[(e)]~~ The fact that a parent did not receive a notice under this section does not create a defense to prosecution under Section 25.093 or 25.094.

(e) ~~[(d)]~~ In this section, "parent" includes a person standing in parental relation.

SECTION _____. The change in law made by this Act to Section 25.095, Education Code, applies beginning with the 1997-1998 school year.

Amendment No. 1 was adopted without objection.

SB 280 (Tillery - House Sponsor), A bill to be entitled An Act relating to the experience credited in placing a public school teacher or librarian on the state minimum salary schedule.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Culberson, Representative Tillery offered the following committee amendment to **SB 280**:

Amend **SB 280** in Section 1 of the bill, in amended Section 21.403(c), Education Code (Senate Engrossment, page 1, lines 6 and 7), by striking "in consultation with the State Board for Educator Certification.".

Amendment No. 1 was adopted without objection.

SB 462 (Hernandez - House Sponsor), A bill to be entitled An Act relating to the residency requirement for admission into the public schools of a school district.

LEAVE OF ABSENCE GRANTED

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

Smithee on motion of Chisum.

CONSENT CALENDAR
(consideration continued)

SB 487 (Naishtat - House Sponsor), A bill to be entitled An Act relating to payment under contracts with the Texas Rehabilitation Commission for vocational rehabilitation services.

SB 937 (Goodman - House Sponsor), A bill to be entitled An Act relating to the creation of the Texas Advisory Commission on Intergovernmental Relations. (Christian, Clark, Finnell, Keffer, and Solomons recorded voting no)

SB 972 (Coleman - House Sponsor), A bill to be entitled An Act relating to mental health treatment decisions made on behalf of an incapacitated individual and authorizing a declaration for mental health treatment.

SB 1066 was withdrawn.

SB 1263 was withdrawn.

CSSB 1311 (Cuellar - House Sponsor), A bill to be entitled An Act relating to providing scholarships to students at institutions of higher education for certain out-of-state intern programs. (Clark recorded voting no)

SB 1566 (Davila - House Sponsor), A bill to be entitled An Act relating to licensing regulations for physician assistants and acupuncturists; providing an administrative penalty.

Amendment No. 1 (Committee Amendment No. 1)

Representative Davila offered the following committee amendment to **SB 1566**:

Amend **SB 1566** as follows:

(1) Insert the following appropriately numbered section in the bill:

SECTION ____. Section 7, Physician Assistant Licensing Act (Article 4495b-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. LICENSURE QUALIFICATIONS. The board shall issue a license under this Act to an applicant who:

(1) submits an application on a form prescribed by the board;

(2) pays the application fee as prescribed by the board;

(3) has successfully completed an educational program for physician assistants or surgeon assistants accredited by the Committee on Allied Health Education and Accreditation or by that committee's predecessor or successor entities, ~~and~~ has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants, and holds a valid certificate issued by the National Commission on Certification of Physician Assistants;

(4) certifies that the applicant is mentally and physically able to function safely as a physician assistant;

(5) does not have a license, certification, or registration as a physician assistant in this state or from any other licensing authority that is currently revoked or suspended or the applicant is not subject to probation or other disciplinary action for cause resulting from the applicant's acts as a physician

assistant, unless the board takes that fact into consideration in determining whether to issue the license;

(6) is of good moral character;

(7) submits to the board any other information the board considers necessary to evaluate the applicant's qualifications; and

(8) meets any other requirement established by rules adopted by the board.

(2) Renumber the sections of the bill accordingly.

Amendment No. 1 was adopted without objection.

SB 1578 (Hunter - House Sponsor), A bill to be entitled An Act relating to meetings of the Texas Higher Education Coordinating Board to consider higher education impact statements.

SB 1607 (Berlanga - House Sponsor), A bill to be entitled An Act relating to the retention of certain medical records.

SB 1651 (Burnam - House Sponsor), A bill to be entitled An Act relating to improving access to health care for the citizens of Texas by providing for the reimbursement and use of particular health care practitioners who are licensed by the state to provide certain services.

SB 1893 (Sadler - House Sponsor), A bill to be entitled An Act relating to the number of days of service required of certain educators for the school year.

CSSB 1907 (Swinford - House Sponsor), A bill to be entitled An Act relating to tuition and fees charged by public institutions of higher education, including the redesignation of certain fees as tuition.

CSSB 1911 (Oakley - House Sponsor), A bill to be entitled An Act relating to interstate natural gas pipeline facilities.

CSSB 1912 (Oakley - House Sponsor), A bill to be entitled An Act relating to hazardous liquid or carbon dioxide pipeline facilities.

SB 1914 (S. Turner - House Sponsor), A bill to be entitled An Act relating to the provision of telecommunications services by the General Services Commission.

RESOLUTIONS CALENDAR

The chair laid before the house the following resolution on committee report:

SCR 34 (Coleman - House Sponsor), Memorializing Congress to improve patient access to quality health care by facilitating the rapid review and approval of new drugs, biological products, and medical devices.

SCR 34 was adopted without objection.

MESSAGE FROM THE SENATE

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

ADJOURNMENT

Representative Gutierrez moved that the house adjourn until 11:45 a.m. today.

The motion prevailed without objection.

The house accordingly, at 11:42 a.m., adjourned until 11:45 a.m. today.

ADDENDUM

SIGNED BY THE SPEAKER

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

House List No. 63

HB 767, HB 993, HB 1170, HB 1327, HB 1507, HB 1585, HB 1645, HB 1779, HB 1990, HB 2215, HB 2556, HB 2703, HB 2778, HB 2825, HB 2848, HCR 240, HCR 241

Senate List No. 31

SB 11, SB 15, SB 16, SB 29, SB 48, SB 57, SB 58, SB 60, SB 68, SB 224, SB 397, SB 467, SB 531, SB 550, SB 612, SB 660, SB 758, SB 759, SB 899, SB 913, SB 938, SB 961, SB 1041, SB 1050, SB 1297, SB 1316, SB 1478, SB 1579, SB 1594, SB 1676, SB 1728, SB 1805, SB 1811, SB 1827, SB 1835, SB 1925, SB 1936, SB 1938, SCR 101

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 23, 1997

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SCR 106 Bivins
Commending the Canadian Wildcats High School girls track team.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SCR 99 (viva-voce vote)

Respectfully,

Betty King
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 23, 1997 - 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 CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 81 (viva-voce vote)

SB 141 (viva-voce vote)

SB 168 (viva-voce vote)

SB 271 (viva-voce vote)

SB 291 (viva-voce vote)

SB 337 (viva-voce vote)

SB 461 (viva-voce vote)

SB 644 (viva-voce vote)

SB 1246 (viva-voce vote)

SB 1262 (viva-voce vote)

SB 1739 (viva-voce vote)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 228

Senate Conferees: Armbrister - Chair/Cain/Gallegos/Lucio/Truan/

SB 1284

Senate Conferees: Gallegos - Chair/Cain/Carona/Madla/West, Royce/

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 580

Senate Conferees: Moncrief - Chair/Cain/Ellis/Patterson, Jerry/Shapiro/

HB 1228

Senate Conferees: Brown - Chair/Barrientos/Haywood/Lucio/Truan/

Respectfully,

Betty King

Secretary of the Senate

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HOUSE JOURNAL

SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTIETH DAY — FRIDAY, MAY 23, 1997

The house met at 11:45 a.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 499).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek

Absent, Excused — Smithee

HR 1071 - ADOPTED (by Pitts)

Representative Pitts moved to suspend all necessary rules to take up and consider at this time **HR 1071**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

HR 1071, Congratulating Ashley Eastham Pitts on her graduation from Waxahachie High School.

HR 1071 was adopted without objection.

HR 866 - MOTION TO ADD NAMES

On motion of Representative Pitts, the names of all the members of the house were added to **HR 866** as signers thereof

LEAVES OF ABSENCE GRANTED

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

RULES SUSPENDED

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

The motion prevailed without objection.

MOTION FOR ONE RECORD VOTE

On motion of Representative Carter and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent, and resolutions calendar that require a record vote on third reading and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

SB 247 - WITHDRAWN

SB 247 was withdrawn from the local, consent, and resolutions calendar.

**LOCAL CALENDAR
CONSENT CALENDAR
THIRD READING**

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

SB 711

SB 118

SB 167

SB 462

SB 487

SB 937 (Christian, Clark, Finnell, Keffer, and Solomons - no)

SB 972

SB 1311 (Clark - no)

SB 1566

SB 1607

SB 1651

SB 1893

SB 1914

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by (Record 500): 145 Yeas, 0 Nays, 2 Present, not voting (members registering votes and the results of the vote are shown following bill number).

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman;

Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

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

Absent, Excused — Smithee.

Absent — Dutton.

SB 23 (145-0-2)

SB 280 (145-0-2)

SB 1578 (145-0-2)

SB 1907 (145-0-2)

SB 1911 (145-0-2)

SB 1912 (145-0-2)

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Natural Resources, on recess today, Desk 9.

Criminal Jurisprudence, on recess today, Desk 48, to consider **SB 50**.

Juvenile Justice and Family Issues, on recess today, Desk 20, to consider **SB 1384**.

RECESS

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

The motion prevailed without objection.

The house accordingly, at 11:54 a.m., recessed until 1:30 p.m. today.

AFTERNOON SESSION

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

(Smithee now present)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Smithee requested permission for the conference committee on **HB 4** and **HJR 4** to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Conference committee on **HB 4** and **HJR 4**, 1:30 p.m. today, senate finance committee room.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of the day to attend a meeting of the conference committee on **HB 4** and **HJR 4**:

Sadler on motion of Smithee.

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **HB 4** and **HJR 4**:

Stiles on motion of Smithee.

Brimer on motion of Smithee.

Hochberg on motion of Smithee.

Craddick on motion of Smithee.

HB 1975 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Smithee submitted the following conference committee report on **HB 1975**:

Austin, Texas, May 20, 1997

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1975** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Sibley

Carona

Harris

Lucio

Madla

On the part of the Senate

Smithee

Bonnen

Burnam

Olivo

Wise

On the part of the House

HB 1975, A bill to be entitled An Act relating to the examination of certain insurance companies.

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

SECTION 1. Article 9.22, Insurance Code, is amended to read as follows:

Art. 9.22. ANNUAL STATEMENT OF TITLE INSURANCE COMPANIES; EXAMINATION. (a) Every title insurance company, domestic and foreign, operating under the provisions of this Act shall, on or before the first of March every year, file with the commissioner [Board] a verified statement, in such form as the commissioner [Board] may require, setting forth the statement of the business done by it during the preceding year, and the condition of its affairs as of December 31st preceding.

(b) Each title insurance company is subject to Articles 1.15 and 1.16 of this code. [It shall be the duty of the Board, biennially, or oftener if it shall be deemed advisable, in person or through a duly appointed representative, to make a thorough examination of the company's books and affairs and the transactions in which it is engaged at the expense of said company, for which purpose the Board or its representatives shall have access to the books and records of the said company, and shall have the right to interrogate and require answer under oath from any officer, agent or employee of the said company concerning any matters pertaining to the business thereof.]

SECTION 2. Article 10.33, Insurance Code, is amended to read as follows:

Art. 10.33. EXAMINATION OF DOMESTIC SOCIETIES. (a) Each domestic society is subject to Articles 1.15 and 1.16 of this code.

(b) ~~[The Board of Insurance Commissioners or any person it may appoint, shall have the power of visitation and examination into the affairs of any domestic society. It may employ assistants for the purpose of such examination, and it, or any person it may appoint, shall have free access to all the books, papers and documents that relate to the business of the society, and may summon and qualify as witnesses under oath and examine its officers, agents and employees or other persons in relation to the affairs, transactions and conditions of the society. The expense of such examination shall be paid by the society examined, upon statement furnished by the Board of Insurance Commissioners, and the examination shall be made at least once in three (3) years.]~~ Whenever after examination the commissioner [Board] is satisfied that any domestic society has failed to comply with any provisions of this chapter, or is exceeding its powers, or is not carrying out its contracts in good faith, or is transacting business fraudulently; or whenever any domestic society, after the existence of one (1) year or more, shall have a membership of less than four hundred (400), or shall determine to discontinue business, the commissioner [said Board] may present the facts relating thereto to the Attorney General, who shall, if he deem the circumstances warrant, commence an action in quo warranto in a court of competent jurisdiction, and if it shall then appear upon the trial that such society should be closed, said society shall be enjoined from carrying on any further business and some person shall be appointed receiver of such society and shall proceed at once to take possession of the books, papers, moneys and other assets of the society, and shall forthwith, under the direction of the court, proceed to close the affairs of the society, and to distribute its funds to those entitled thereto.

SECTION 3. Article 10.35, Insurance Code, is amended to read as follows:

Art. 10.35. EXAMINATION OF FOREIGN SOCIETIES. The commissioner [~~Board of Insurance Commissioners~~], or any person appointed by the commissioner [~~whom it may appoint~~], may examine any foreign society transacting or applying for admission to transact business in this State. The commissioner [~~said Board~~] may employ assistants, and the commissioner [~~it,~~] or the commissioner's appointee [~~any person it may appoint,~~] shall have free access to all the books, papers and documents that relate to the business of the society, and may summon and qualify as witnesses under oath and examine its officers, agents and employees and other persons in relation to the affairs, transactions and conditions of the society. The commissioner [~~It~~] may~~[, in its discretion,]~~ accept in lieu of such examination the examination of the Insurance Department of the state, territory, district, province or country where such society is organized. [~~The actual expense of examiners making such examination shall be paid by the society, upon statements furnished by the Board.~~] If any such society or its officers refuse to permit such examination or to comply with the provisions of the law relative thereto, the authority of such society to write new business in this State shall be suspended, or license refused, until satisfactory evidence is furnished to the commissioner [~~the Board of Insurance Commissioners~~] relating to the condition and affairs of the society, and during suspension the society shall not write any new business in this State. Each foreign society is subject to the provisions of Articles 1.15 and 1.16 of this code that are applicable to insurance carriers that are not organized under the laws of this State but are authorized to transact business in this State.

SECTION 4. Article 13.09, Insurance Code, is amended to read as follows:

Art. 13.09. EXCEPTIONS AND EXEMPTIONS; EXAMINATIONS.

(a) This chapter shall in no wise affect or apply to companies operating as local mutual aids, as fraternal benefit societies, reciprocal exchanges, or to foreign assessment companies operating under any other law in this State, or any other form of insurance other than those corporations carrying on in this State the statewide business of mutually protecting or insuring the lives of their members by assessments made upon their members. Except as expressly provided in this chapter and in Chapter 14 of this code, no insurance law of this State shall apply to any corporation operating under this chapter, and no law hereafter enacted shall apply to them unless they be expressly designated therein.

(b) Articles 1.15 and 1.16 of this code apply to corporations and associations regulated under this chapter.

SECTION 5. Article 14.16, Insurance Code, is amended to read as follows:

Art. 14.16. EXAMINATION. Articles 1.15 and 1.16 of this code apply to corporations and associations regulated under this chapter. [~~In addition to the annual report required by this chapter, the State Board of Insurance shall, once in every two (2) years or oftener if it deems it advisable, require the books, records, accounts, and affairs of any corporation or association qualifying and acting under this chapter to be examined and audited by an accountant or accountants or examiner designated and commissioned by the Board. For the purpose of any examination, the Board and the auditors and examiners shall have free access to all books, records, papers, and accounts of the corporation; and the cost for the time required in making such examination and audit and~~

~~all necessary expenses in connection therewith shall be paid by the corporation upon presentation of a bill showing the charges made by the Board, which shall include the salaries, traveling expenses, hotel bills, and other expenses of such auditors and/or examiners, together with all other expenses in connection with such examination. Each corporation or association shall be charged with the salary of the auditors and examiners for the time required in making such examination and the time required in connection with going to and coming from the place or places necessary in connection with such examination, together with all expenses incurred by such auditors and/or examiners, and in addition thereto such corporation or association shall be charged by the Board with an amount equal to the salaries of the actuaries, examination clerk or clerks, stenographers, and all other employees employed in connection with the examination work in the Board for the time said employees are performing duties in connection with the examination of each corporation so examined.~~

~~[The amounts so collected shall be paid into the State Treasury to the credit of the State Board of Insurance operating fund and shall be spent as authorized by legislative appropriation only on warrants issued by the comptroller of public accounts pursuant to duly certified requisitions of the State Board of Insurance.~~

~~[The Commissioner of Insurance or any deputy or examiner shall have the right to require any officer, agent, or employee of any company or association operating under this law, or any other person, to be sworn and to answer under oath any questions regarding the affairs or activities of said association or company, and said Commissioner deputy, examiner, or auditor is hereby authorized to administer such oath.]~~

SECTION 6. Article 17.22(a), Insurance Code, is amended to read as follows:

(a) County mutual insurance companies shall be exempt from the operation of all insurance laws of this state, except such laws as are made applicable by their specific terms or as in this Chapter specifically provided. In addition to such other Articles as may be made to apply by other Articles of this Code, county mutual insurance companies shall be subject to:

(1) Subdivision 7 of Article 1.10 of this Code; ~~and~~

(2) Articles 1.15, 1.15A, 1.16, 1.24, 2.04, 2.05, 2.08, 2.10, 4.10, 5.12, 5.37, 5.38, 5.39, 5.40, 5.49, 21.21, and 21.49 of this Code~~;~~ ~~and~~

~~[(3) Article 7064, Revised Statutes].~~

SECTION 7. Article 20.21, Insurance Code, is amended to read as follows:

Art. 20.21. ~~[EXAMINATION OF]~~ BOOKS AND RECORDS; EXAMINATION. (a) Every such corporation shall keep complete books and records~~[- showing all funds collected and disbursed, and all books and records shall be subject to examination by the Board of Insurance Commissioners annually, the expense of such examination to be borne by said corporation].~~

(b) Articles 1.15 and 1.16 of this code apply to corporations regulated under this article.

SECTION 8. Section 5B(a), Article 21.49, Insurance Code, is amended to read as follows:

(a) The association is subject to Articles 1.15 and 1.16 of this code ~~[Board shall, once in each two-year period, or more often if the Board considers it necessary, examine the financial condition of the Association and its abilities~~

~~to meet its liabilities, as well as its compliance with the law of this state affecting the conduct of its business. The examination shall be made by the Board, one or more examiners, or commission of an independent certified public accountant. The Board or its commissioned examiners are entitled to free access to all the books and records of the Association or agents writing business in the Association and may summon and examine under oath officers, employees, agents, and any other persons in the state relative to the affairs of the Association].~~

SECTION 9. Section 10, Article 21.49-3, Insurance Code, is amended to read as follows:

Sec. 10. EXAMINATIONS. The association is subject to Articles 1.15 and 1.16 of this code ~~[board shall make an examination into the affairs of the association at least annually. Such examination shall be conducted, the report thereon filed, and expenses borne and paid for, in the manner prescribed in Articles 1.15 and 1.16 of the Insurance Code].~~

SECTION 10. The following laws are repealed:

- (1) Article 17.18, Insurance Code; and
- (2) Section 5B(c), Article 21.49, Insurance Code.

SECTION 11. This Act takes effect September 1, 1997, and applies only to an examination conducted by the Texas Department of Insurance on or after that date.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Smithee moved to adopt the conference committee report on **HB 1975**.

The motion prevailed.

(Goolsby in the chair)

SB 875 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Danburg, the house granted the request of the senate for the appointment of a conference committee on **SB 875**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 875**: Danburg, chair, Allen, Driver, Keel, and McClendon.

HB 63 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 63, A bill to be entitled An Act relating to student debit card programs operated by public institutions of higher education.

On motion of Representative Kamel, the house concurred in the senate amendments to **HB 63**.

Senate Amendment No. 1

Amend **HB 63** as follows:

Amend Section 51.940(c) (page 1, lines 28-35) by inserting the following after the period (page 1, line 35):

"The institution of higher education may assess participating businesses a fee, sufficient to cover the cost of implementation and administration of this program.

**HB 119 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 119, A bill to be entitled An Act relating to disclosure of ingredients in cigarettes and tobacco products.

On motion of Representative Hirschi, the house concurred in the senate amendments to **HB 119**.

Senate Amendment No. 1

Amend **HB 119** as follows:

(1) In Section 161.254(a), Health and Safety Code, as added by SECTION 1 of the bill, strike "Except as provided by Subsections (b) and (c)" and substitute "Except as provided by Subsections (b), (c), and (d)".

(2) In Section 161.254, Health and Safety Code, as added by SECTION 1 of the bill, strike Subsection (d) and substitute the following:

(d) Information included in a report filed under this subchapter is confidential under Chapter 552, Government Code, if the information would be excepted from public disclosure as a trade secret under state or federal law.

**HB 137 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 137, A bill to be entitled An Act relating to the qualifications of certain charitable organizations for an exemption from ad valorem taxation.

On motion of Representative West, the house concurred in the senate amendments to **HB 137**.

Senate Committee Substitute

CSHB 137, A bill to be entitled An Act relating to the qualifications of certain charitable organizations for an exemption from ad valorem taxation.

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

SECTION 1. Sections 11.18(d) and (e), Tax Code, are amended to read as follows:

(d) A charitable organization must be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsection (h) of this section, engage exclusively in performing one or more of the following charitable functions:

(1) providing medical care without regard to the beneficiaries' ability to pay, which in the case of a nonprofit hospital or hospital system means providing charity care and community benefits as set forth in Paragraph (A), (B), (C), (D), (E), (F), (G), or (H):

(A) charity care and government-sponsored indigent health care are provided at a level which is reasonable in relation to the community needs, as determined through the community needs assessment, the available resources of the hospital or hospital system, and the tax-exempt benefits received by the hospital or hospital system;

(B) charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of the hospital's or hospital system's net patient revenue;

(C) charity care and government-sponsored indigent health care are provided in an amount equal to at least 100 percent of the hospital's or hospital system's tax-exempt benefits, excluding federal income tax;

(D) a nonprofit hospital that has been designated as a disproportionate share hospital under the state Medicaid program in the current year or in either of the previous two fiscal years shall be considered to have provided a reasonable amount of charity care and government-sponsored indigent health care and shall be deemed in compliance with the standards in this subsection;

(E) for tax years before 1996, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least three percent of net patient revenue;

(F) beginning with the hospital's or hospital system's tax year starting after 1995, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of net patient revenue;

(G) a hospital operated on a nonprofit basis that is located in a county with a population of less than 50,000 and in which the entire county or the population of the entire county has been designated as a health professionals shortage area is considered to be in compliance with the standards provided by this subsection; or

(H) a hospital providing health care services to inpatients or outpatients without receiving any payment for providing those services from any source, including the patient or person legally obligated to support the patient, third-party payors, Medicare, Medicaid, or any other state or local indigent care program but excluding charitable donations, legacies, bequests, or grants or payments for research, is considered to be in compliance with the standards provided by this subsection;

(2) providing support or relief to orphans, delinquent, dependent, or handicapped children in need of residential care, abused or battered spouses or children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;

(3) providing support to elderly persons or the handicapped without regard to the beneficiaries' ability to pay;

(4) preserving a historical landmark or site;

(5) promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir;

(6) promoting or providing humane treatment of animals;

(7) acquiring, storing, transporting, selling, or distributing water for public use;

(8) answering fire alarms and extinguishing fires with no compensation or only nominal compensation to the members of the organization;

(9) promoting the athletic development of boys or girls under the age of 18 years;

(10) preserving or conserving wildlife;

(11) promoting educational development through loans or scholarships to students;

(12) providing halfway house services pursuant to 20 a certification as a halfway house by the Board of Pardons and Paroles;

(13) providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older without regard to the residents' ability to pay;

(14) promoting or operating an art gallery, museum, or collection, in a permanent location or on tour, that is open to the public;

(15) providing for the organized solicitation and collection for distributions through gifts, grants, and agreements to nonprofit charitable, education, religious, and youth organizations that provide direct human, health, and welfare services;

(16) performing biomedical or scientific research or biomedical or scientific education for the benefit of the public; ~~or~~

(17) operating a television station that produces or broadcasts educational, cultural, or other public interest programming and that receives grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 36;

(18) providing housing for low-income and moderate-income families, for unmarried individuals 62 years of age or older, for handicapped individuals, and for families displaced by urban renewal, through the use of trust assets that are irrevocably and, pursuant to a contract entered into before December 31, 1972, contractually dedicated on the sale or disposition of the housing to a charitable organization that performs charitable functions described by Subdivision (9); or

(19) providing housing and related services to persons who are 62 years of age or older in a retirement community, if the retirement community provides independent living services, assisted living services, and nursing services to its residents on a single campus:

(A) without regard to the residents' ability to pay; or

(B) in which at least four percent of the retirement community's combined net resident revenue is provided in charitable care to its residents.

For purposes of satisfying Paragraph (F) of Subdivision (1), a hospital or

hospital system may not change its existing fiscal year unless the hospital or hospital system changes its ownership or corporate structure as a result of a sale or merger.

For purposes of this subsection, a hospital that satisfies Paragraph (A), (D), (G), or (H) of Subdivision (1) shall be excluded in determining a hospital system's compliance with the standards provided by Paragraph (B), (C), (E), or (F) of Subdivision (1).

For purposes of this subsection, the terms "charity care," "government-sponsored indigent health care," "health care organization," "hospital system," "net patient revenue," "nonprofit hospital," and "tax-exempt benefits" have the meanings set forth in Sections 311.031 and 311.042, Health and Safety Code. A determination of the amount of community benefits and charity care and government-sponsored indigent health care provided by a hospital or hospital system and the hospital's or hospital system's compliance with the requirements of Section 311.045, Health and Safety Code, shall be based on the most recently completed and audited prior fiscal year of the hospital or hospital system.

The providing of charity care and government-sponsored indigent health care in accordance with Paragraph (A) of Subdivision (1) shall be guided by the prudent business judgment of the hospital which will ultimately determine the appropriate level of charity care and government-sponsored indigent health care based on the community needs, the available resources of the hospital, the tax-exempt benefits received by the hospital, and other factors that may be unique to the hospital, such as the hospital's volume of Medicare and Medicaid patients. These criteria shall not be determinative factors, but shall be guidelines contributing to the hospital's decision along with other factors which may be unique to the hospital. The formulas contained in Paragraphs (B), (C), (E), and (F) of Subdivision (1) shall also not be considered determinative of a reasonable amount of charity care and government-sponsored indigent health care.

The requirements of this subsection shall not apply to the extent a hospital or hospital system demonstrates that reductions in the amount of community benefits, charity care, and government-sponsored indigent health care are necessary to maintain financial reserves at a level required by a bond covenant, are necessary to prevent the hospital or hospital system from endangering its ability to continue operations, or if the hospital or hospital system, as a result of a natural or other disaster, is required substantially to curtail its operations.

In any fiscal year that a hospital or hospital system, through unintended miscalculation, fails to meet any of the standards in Subdivision (1), the hospital or hospital system shall not lose its tax-exempt status without the opportunity to cure the miscalculation in the fiscal year following the fiscal year the failure is discovered by both meeting one of the standards and providing an additional amount of charity care and government-sponsored indigent health care that is equal to the shortfall from the previous fiscal year. A hospital or hospital system may apply this provision only once every five years.

(e) A charitable organization must be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other

compensation for services rendered, or realization of any other form of private gain and, if the organization performs one or more of the charitable functions specified by Subsection (d) of this section other than a function specified in Subdivision (1), (2), (8), (9), (12), [or] (16), or (18), be organized as a nonprofit corporation as defined by the Texas Non-Profit Corporation Act.

(k) In connection with a nursing home or retirement community, for purposes of Subsection (d):

(1) "Assisted living services" means responsible adult supervision of or assistance with routine living functions of an individual in instances where the individual's condition necessitates that supervision or assistance.

(2) "Charity care," "government-sponsored indigent health care," and "net resident revenue" are determined in the same manner for a retirement community or nursing home as for a hospital under Subsection (d) (1) (B).

(3) "Nursing care services" includes services provided by nursing personnel, including patient observation, the promotion and maintenance of health, prevention of illness or disability, guidance and counseling to individuals and families, and referral of patients to physicians, other health care providers, or community resources if appropriate.

(4) "Retirement community" means a collection of various types of housing that are under common ownership and designed for habitation by individuals over the age of 62.

(5) "Single campus" means a facility designed to provide multiple levels of retirement housing that is geographically situated on a site at which all levels of housing are contiguous to each other on a single property.

SECTION 2. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.182 to read as follows:

Sec. 11.182. COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS IMPROVING PROPERTY FOR LOW-INCOME AND MODERATE-INCOME HOUSING.

(a) An organization is entitled to an exemption from taxation of improved or unimproved real property it owns if the organization:

(1) is organized as a community housing development organization;

(2) meets the requirements of a charitable organization provided by Sections 11.18(e) and (f);

(3) owns the property for the purpose of building or repairing housing on the property to sell without profit to a low-income or moderate-income individual or family satisfying the organization's eligibility requirements or to rent without profit to such an individual or family; and (4) engages exclusively in the building, repair, and sale or rental of housing as described by Subdivision (3) and related activities.

(b) Property owned by the organization may not be exempted under Subsection (a) after the third anniversary of the date the organization acquires the property unless the organization is offering to rent or is renting the property without profit to a low-income or moderate-income individual or family satisfying the organization's eligibility requirements

(c) A person claiming an exemption for property described under this section must comply with the requirements of Sections 11.43(a) and (b).

(d) An organization entitled to an exemption under Subsection (a) is also

entitled to an exemption from taxation of any building or tangible personal property the organization owns and uses in the administration of its acquisition, building, repair, sale, or rental of property. To qualify for an exemption under this subsection, property must be used exclusively by the organization, except that another person may use the property for activities incidental to the organization's use that benefit the beneficiaries of the organization.

(e) In this section "community housing development organization" has the meaning assigned that term by 42 U.S.C. Section 12704.

SECTION 3. Subsection (a), Section 11.436, Tax Code, is amended to read as follows:

(a) An organization that acquires property that qualifies for an exemption under Section 11.181(a) or 11.182(a) may apply for the exemption for the year of acquisition not later than the 30th day after the date the organization acquires the property, and the deadline provided by Section 11.43(d) does not apply to the application for that year.

SECTION 4. Subsection (a), Section 26.111, Tax Code, is amended to read as follows:

(a) If an organization acquires taxable property that qualifies for and is granted an exemption under Section 11.181(a) or 11.182(a) for the year in which the property was acquired, the amount of tax due on the property for that year is calculated by multiplying the amount of taxes imposed on the property for the entire year as provided by Section 26.9 by a fraction, the denominator of which is 365 and the numerator of which is the number of days in that year before the date the charitable organization acquired the property.

SECTION 5. This Act takes effect January 1, 1998.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

**HB 1856 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1856, A bill to be entitled An Act relating to the continuation and functions of the Commission on Law Enforcement Officer Standards and Education.

Representative Telford 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 1856**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1856**: Telford, chair, Driver, Carter, Hightower, and McClendon.

(Speaker in the chair)

**HB 155 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 155, A bill to be entitled An Act relating to the listing and registration of family homes; providing penalties.

On motion of Representative Greenberg, the house concurred in the senate amendments to **HB 155**.

(Davis in the chair)

Senate Amendment No. 1

Amend **HB 155** as follows:

(1) Strike Section 12 and substitute a new section to read as follows:

SECTION 12. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.057 to read as follows:

Sec. 42.057. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) In accordance with rules adopted by the department, the director, owner, or operator of a child-care facility or family home shall:

(1) when applying to operate a child-care facility or when listing or registering a family home, submit to the department for use in conducting background and criminal history checks:

(A) the name of the director, owner, and operator of the facility or home and the name of each person employed at the facility or home; and

(B) the name of each person 14 years of age or older who will regularly or frequently be staying or working at the facility or home while children are being provided care; and

(2) after receiving a license, listing, registration, or certification of approval, submit to the department for use in conducting background and criminal history checks the name of any person not submitted to the department under Subdivision (1) who:

(A) becomes a director, owner, or operator of the facility or home;

(B) is employed at the facility or home; or

(C) is 14 years of age or older and regularly or frequently stays or works at the facility or home while children are being provided care.

(b) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection (a);

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(c) The department by rule shall require a child-care facility or registered family home to pay to the department a fee in an amount not to exceed the

administrative costs the department incurs in conducting a background and criminal history check under this section.

(2) Strike Section 13 and substitute a new section as follows:

SECTION 13. Section 42.072, Human Resources Code, is amended to read as follows:

Sec. 42.072. LICENSE OR REGISTRATION DENIAL, SUSPENSION, OR REVOCATION. (a) The department [~~division~~] may suspend, deny, [or] revoke, or refuse to renew the license, listing, registration, or certification of approval of a facility or family home that does not comply with the requirements of this chapter, the standards and rules of the department, or the specific terms of the license, listing, registration, or certification. The department may revoke the probation of a person whose license, listing, or registration is suspended if the person violates a term of the conditions of probation.

(b) If the department proposes to take an action under Subsection (a), the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001, Government Code. Rules of practice adopted by the board under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings. [The division shall notify the person operating or proposing to operate a facility of the reasons for the denial or revocation and of the person's right to appeal the decision within 30 days after receiving the notice.]

(c) [A person who wishes to appeal a license denial or revocation shall notify the director by certified mail within 30 days after receiving the notice required in Subsection (b) of this section. The person shall send a copy of the notice of appeal to the assigned division representative.]

[(d) The denial or revocation of a license or certification and the appeal from that action are governed by the procedure for a contested case hearing under Chapter 2001, Government Code.]

[(e) A person whose license has been denied or revoked may challenge the decision by filing a suit in a district court of Travis County or the county in which the person's facility is located within 30 days after receiving the decision. The trial shall be de novo.]

[(f) Records of the hearing shall be kept for two years after a decision is rendered. On request, and at the person's own expense, the division shall supply a copy of the verbatim transcript of the hearing to a person appealing a license denial or revocation in district court.]

[(g) A person may continue to operate a facility during an appeal of a license denial or revocation unless the division has obtained injunctive relief under Section 42.074 or civil penalties under Section 42.075 or the facility has been closed under Section 42.073.]

[(h) A person whose license, listing, registration, or certification is revoked may not apply for any license, listing, registration, or certification under this chapter before the second anniversary of the date on which the revocation takes effect by department or court order.

(d) The department by rule may provide for denial of an application or

renewal for a licensed facility or for listing or registering a family home or may revoke a facility's license or a family home's listing or registration based on findings of background or criminal history as a result of a background or criminal history check.

(3) Strike Section 14 and renumber remaining sections appropriately.

(4) Strike Section 15 and substitute new section as follows:

SECTION 15. Section 42.073, Human Resources Code, is amended by amending Subsections (a) and (b) to read as follows:

Sec. 42.073. EMERGENCY SUSPENSION AND CLOSURE OF A FACILITY OR FAMILY HOME. (a) The department [~~division~~] shall suspend a facility's license or a family home's listing or registration and[;] order the immediate closing of the facility or family home [~~, and place the children attending or residing in the facility elsewhere~~] if:

(1) the department [~~division~~] finds the facility or family home is operating in violation of the applicable standards prescribed by this chapter; and

(2) the violation creates an immediate threat to the health and safety of the children attending or residing in the facility or family home.

(b) An order suspending a license, listing or registration and an order closing a facility or family home under this section is immediately effective on the date on which the [~~license~~] holder of the license, listing or registration receives written notice or on a later date specified in the order.

HB 218 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 218, A bill to be entitled An Act relating to enforcement of the National Flood Insurance Program by certain counties; providing a civil penalty.

On motion of Representative Mowery, the house concurred in the senate amendments to **HB 218**.

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

Amend **HB 218** (House engrossed version) as follows:

(1) In SECTION 1, Sec. 16.322, replace the phrase "Section 16.323" with the phrase "this subchapter" wherever it appears in the subsection.

Senate Amendment No. 2

Amend **HB 218** between SECTIONS 1 and 2 of the bill (Committee Printing page 1, between lines 42 and 43) by inserting the following section and renumbering the subsequent sections appropriately:

SECTION 2. This Act does not change the elements of a violation of Subchapter I, Chapter 16, Water Code, or a rule adopted or order issued under that subchapter. This Act merely provides an additional remedy for a violation or threatened violation of that subchapter or a rule adopted or order issued under that subchapter.

**HB 733 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 733, A bill to be entitled An Act relating to the lease of certain state facilities.

(Speaker in the chair)

On motion of Representative Raymond, the house concurred in the senate amendments to **HB 733** by (Record 501): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Oakley; Oliveira; Olivo; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused, Committee Meeting — Brimer; Craddick; Hochberg; Sadler; Stiles.

Absent — Jones, D.; Nixon; Palmer.

Senate Amendment No. 1

Amend **HB 733** by adding the following section, appropriately numbered, and renumbering the existing sections appropriately:

SECTION _____. Section 2165.004, Government Code, is amended to read as follows:

Sec. 2165.004. LEASE OF SPACE TO PUBLIC TENANTS IN [~~CERTAIN~~] STATE-OWNED BUILDINGS. (a) The commission or a state agency with charge and control of a state building may enter into a lease agreement with a department, commission, board, agency, or other instrumentality of the state, a political subdivision of the state, or the federal government or its instrumentalities for space in the [~~an office~~] building [~~subject to Chapter 2166~~]. Except as provided by Subchapter E or other law, the commission may not lease space in a state office [~~the~~] building to an individual,

private corporation, association, partnership, or other private interest.

(b) The commission or a state agency with charge and control of a state building may adopt rules necessary to implement this section.

(c) In this section, "political subdivision" includes a county, municipality, school district, water or irrigation district, hospital district, council of governments, or regional planning commission.

HB 812 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 812, A bill to be entitled An Act relating to certain communications between physicians, dentists, or other providers and patients or health care plan enrollees and to certain related contracts.

On motion of Representative Janek, the house concurred in the senate amendments to **HB 812**.

Senate Committee Substitute

CSHB 812, A bill to be entitled An Act relating to certain communications between physicians, dentists, or other providers and patients or health care plan enrollees and to certain related contracts.

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

SECTION 1. The Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), is amended by adding Section 18A to read as follows:

Sec. 18A. PHYSICIAN, DENTIST, OR PROVIDER COMMUNICATION.

(a) A health maintenance organization may not, as a condition of a contract with a physician, dentist, or provider, or in any other manner, prohibit, attempt to prohibit, or discourage a physician, dentist, or provider from discussing with or communicating in good faith to a current, prospective, or former patient, or a party designated by a patient, with respect to:

(1) information or opinions regarding the patient's health care, including the patient's medical condition or treatment options;

(2) information or opinions regarding the provisions, terms, requirements, or services of the health care plan as they relate to the medical needs of the patient; or

(3) the fact that the physician's, dentist's, or provider's contract with the health care plan has terminated or that the physician, dentist, or provider will otherwise no longer be providing medical care, dental care, or health care services under the health care plan.

(b) A health maintenance organization may not in any way penalize, terminate, or refuse to compensate, for covered services, a physician, dentist, or provider for communicating with a current, prospective, or former patient, or a party designated by a patient, in any manner protected by this section.

(c) A contract provision that violates this section is hereby declared void.

SECTION 2. Subchapter E, Chapter 241, Health and Safety Code, is amended by adding Section 241.1015 to read as follows:

Sec. 241.1015. PHYSICIAN COMMUNICATION AND CONTRACTS.

(a) A hospital, whether by contract, by granting or withholding staff privileges, or otherwise, may not restrict a physician's ability to communicate with a patient with respect to:

(1) the patient's coverage under a health care plan;

(2) any subject related to the medical care or health care services to be provided to the patient, including treatment options that are not provided under a health care plan;

(3) the availability or desirability of a health care plan or insurance or similar coverage, other than the patient's health care plan;

(4) the availability or desirability of services at another hospital; or

(5) the fact that the physician's staff privileges or contract with a hospital or health care plan have terminated or that the physician will otherwise no longer be providing medical care or health care services at the hospital or under the health care plan.

(b) A hospital, by contract or otherwise, may not refuse or fail to grant or renew staff privileges, or condition staff privileges, based in whole or in part on the fact that the physician or a partner, associate, or employee of the physician is providing medical or health care services at a different hospital or hospital system.

(c) A hospital may not contract to limit a physician's participation or staff privileges or the participation or staff privileges of a partner, associate, or employee of the physician at a different hospital or hospital system.

(d) A contract provision that violates this section is void.

(e) In this section, "health care plan" has the meaning assigned by Section 2, Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code).

SECTION 3. This Act takes effect September 1, 1997, and applies only to a contract entered into or renewed on or after that date. A contract entered into or renewed before September 1, 1997, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Senate Amendment No. 1

Amend **CSHB 812** as follows:

(1) In SECTION 2, Section 241.1015, Health and Safety Code, strike Subsection (a)(4) (page 1, lines 55-56, committee printing), and renumber the subsequent subdivisions accordingly.

(2) In SECTION 2, Section 241.1015, Health and Safety Code (page 2, between lines 7 and 8, committee printing), add new Subsections (d) and (e) to read as follows, and renumber the subsequent subsections accordingly:

"(d) This section does not prevent a hospital from entering into contracts with physicians to ensure physician availability and coverage at the hospital or to comply with regulatory requirements or quality of care standards established by the governing body of the hospital.

(e) This section does not prevent the governing body of a hospital from:

(1) limiting the number of physicians granted medical staff membership or privileges at the hospital based on a medical staff development plan that is unrelated to a physician's professional or business relationships or associations including those with another physician or group of physicians or to a physician or a partner, associate or employee of a physician having medical staff membership or privileges at another hospital or hospital system; or

(2) limiting the ability of hospital medical directors to contract with or hold medical staff memberships or clinical privileges at different hospitals or hospital systems provided that such limitations do not extend to the medical directors' professional or business relationships or associations including those with another physician, group of physicians or other health care providers, other than hospitals or hospital systems."

(3) In SECTION 2, Section 241.1015, Health and Safety Code strike Subsection (e) (page 2, line 9 - 11, committee printing), and substitute the following:

"(e) In this section, "health care plan" has the meaning assigned by Section 2, Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code), and "hospital medical directors" means physicians who have been employed by or are under contract with a hospital to manage a clinical department or departments of the hospital."

HB 1070 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Van de Putte called up with senate amendments for consideration at this time,

HB 1070, A bill to be entitled An Act relating to drug regulation and enforcement under the Texas Controlled Substances Act and to the authority of certain state agencies under that Act and to certain penalties for the use of a controlled substance to commit the offense; imposing criminal penalties.

On motion of Representative Van de Putte, the house concurred in the senate amendments to **HB 1070**.

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

Amend **HB 1070** as follows:

Delete SECTION 25 and SECTION 26 and renumber subsequent sections accordingly.

Senate Amendment No. 2

Amend **HB 1070** as follows:

In Section 481.034, strike Subsection (a) and (b) (committee printing page 11, lines 2-15) and substitute the following:

"(a) The commissioner shall annually establish the schedules of controlled substances. These annual schedules shall include the complete list of all

controlled substances from the previous schedules and modifications in the federal schedules of controlled substances as required by (g).[, with the approval of the Texas Board of Health, may add substances to Schedules I through V and delete, or reschedule substances listed in those schedules. The commissioner shall assign a controlled substance wo a schedule] Any further additions to and deletions from these schedules, any rescheduling of substance and any other modifications made by the commissioner to these schedules of controlled substances shall be made:

- (1) in accordance with [subject to] Section 481.035;
- (2) in a manner consistent with this subchapter [481.039]; and
- (3) with approval of the Texas Board of Health.

(b) Except for alterations in schedules required by Subsection (g), the commissioner may not make an alteration in a schedule unless the commissioner holds a public hearing on the matter in Austin and obtains approval from the Texas Board of Health."

Senate Amendment No. 3

Amend **HB 1070** as follows:

(1) In SECTION 22 of the bill, amended Section 481.128, Health and Safety Code, strike Subsections (a)(4)-(7) (senate committee printing, page 28, lines 25-33), and substitute the following:

(4) prints, manufactures, possesses, or produces a prescription sticker or official [triplicate] prescription form without the approval of the director [Department of Public Safety];

(5) delivers or possesses a counterfeit prescription sticker or official [triplicate] prescription form;

(6) refuses an entry into a premise for an inspection authorized by this chapter;

(7) refuses or fails to return a [triplicate] prescription sticker [form] as required by Section 481.075(k) [481.075(h)]; [or]

(2) Add appropriately numbered SECTIONS to the bill to read as follows:

SECTION _____. Section 481.002, Health and Safety Code, is amended by amending Subdivision (47) and adding Subdivisions (51), (52), (53), (54), and (55) to read as follows:

(47) "Official [TriPLICATE] prescription form" means a [an official Department of Public Safety] prescription form that contains the prescription information required by Section 481.075 and to which is affixed a prescription sticker [used to administer, dispense, prescribe, or deliver to an ultimate user a controlled substance listed in Schedule H].

(51) "Patient identification number" means:

(A) a unique number assigned to the person by the department or by an analogous department of another state that appears on the person's driver's license or personal identification certificate;

(B) the registration number assigned to the person under Chapter 13, Election Code;

(C) a unique number assigned to the person by an agency of the United States that appears on the person's social security card, military identification card, passport, visa, work permit, or other identification card;

(D) for a person younger than 18 years of age who has not been issued a document described by Paragraph (A), (B), or (C), the number assigned to the person's parent or guardian that appears on a document described by those paragraphs issued to that parent or guardian; or

(E) for an animal, the number assigned to the animal's owner that appears on a document described by Paragraph (A), (B), (C), or (D).

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

(53) "Driver's license" has the meaning assigned that term by Section 521.001, Transportation Code.

(54) "Personal identification certificate" means a certificate issued under Subchapter E, Chapter 521, Transportation Code.

(55) "Prescription sticker" means a prescription sticker issued by the director under Section 481.075.

SECTION _____. Subchapter A, Chapter 481, Health and Safety Code, is amended by adding Section 481.003 to read as follows:

Sec. 481.003. RULES. The director may adopt rules to administer and enforce this chapter.

SECTION _____. Section 481.064, Health and Safety Code, is amended to read as follows:

Sec. 481.064. ~~[RULES;]~~ REGISTRATION FEES. (a) ~~[The director may adopt reasonable rules.~~

~~[(b)]~~ The director may charge an annual registration fee of not more than \$25. The director by rule shall set the amount of the fee at the amount that is ~~[\$5 for the costs]~~ necessary to cover the cost of administering and enforcing ~~[administer]~~ this subchapter ~~[chapter]~~. Except as provided by Subsection ~~(b)~~ ~~[(c)]~~, registrants shall pay the fees to the director.

~~(b)~~ ~~[(c)]~~ The director may authorize a contract between the department ~~[Department of Public Safety]~~ and an appropriate state agency for the collection and remittance of the fees. The director by rule may provide for remittance of the fees collected by state agencies for the department.

~~(c)~~ ~~[(d)]~~ The director shall deposit the collected fees ~~[in the state treasury]~~ to the credit of the operator's and chauffeur's license account in the general revenue fund. The fees may be used only by the department ~~[Department of Public Safety]~~ in the administration or enforcement of this subchapter ~~[chapter]~~.

SECTION _____. Section 481.074, Health and Safety Code, is amended by amending Subsections (a), (b), (c), and (f) and adding Subsections (m) and (n) to read as follows:

(a) A pharmacist may not:

(1) dispense or deliver a controlled substance or cause a controlled substance to be dispensed or delivered under the pharmacist's direction or supervision except under a valid prescription and in the course of professional practice;

(2) fill a prescription that is not prepared or issued as prescribed by this chapter;

(3) permit or allow a person who is not a licensed pharmacist or pharmacist intern to dispense, distribute, or in any other manner deliver a controlled substance even if under the supervision of a pharmacist, except that after the pharmacist or pharmacist intern has fulfilled his professional and legal

responsibilities, a nonpharmacist may complete the actual cash or credit transaction and delivery; or

(4) permit the delivery of a controlled substance to any person not known to the pharmacist, the pharmacist intern, or the person authorized by the pharmacist to deliver the controlled substance without first requiring identification of the person taking possession of the controlled substance, except as provided by Subsection (n) [~~; if the person taking possession of the controlled substance does not have identification and the pharmacist determines that the controlled substance is needed for the immediate well-being of the patient, delivery may be made; this subsection does not prohibit the delivery by mail or authorized delivery person of a controlled substance to a person or the address of the person authorized by prescription to receive that controlled substance~~].

(b) Except in an emergency as defined by rule of the director or as provided by Section 481.075(j) [~~481.075(g)~~], a person may not dispense or administer a controlled substance listed in Schedule II without the written prescription of a practitioner on an official prescription [~~a~~] form that meets the requirements of and is completed by the practitioner in accordance with Section 481.075, and if the controlled substance is to be dispensed, the practitioner must be registered under Section 481.063. In an emergency, a person may dispense or administer a controlled substance listed in Schedule II on the oral or telephonically communicated prescription of a practitioner. The person who administers or dispenses the substance shall:

(1) if the person is a prescribing practitioner or a pharmacist, promptly comply with Subsection (c); or

(2) if the person is not a prescribing practitioner or a pharmacist, promptly write the oral or telephonically communicated prescription and [shall] include in the written record of the prescription the name, address, and Federal Drug Enforcement Administration number of the prescribing practitioner, all information required to be provided by a [the] practitioner under Section 481.075(e)(1) [481.075(d)], and all information required to be provided by a [the] dispensing pharmacist under Section 481.075(e)(2) [481.075(f)]. The person shall send a copy of the written record to the Department of Public Safety not later than the 30th day after the date the prescription is filled].

(c) Not later than 72 hours after authorizing an emergency oral or telephonically communicated prescription, the prescribing practitioner shall cause a written prescription, completed in the manner required by Section 481.075, to be delivered in person or mailed to the dispensing pharmacist at the pharmacy where the prescription was dispensed. The envelope of a prescription delivered by mail must be postmarked not later than 72 hours after the prescription was authorized. On receipt of the prescription, the dispensing pharmacy shall file the transcription of the telephonically communicated prescription and the pharmacy copy. The pharmacist or the pharmacy that employs the pharmacist shall send all information required by the director, including any information required to complete an official prescription form, to the director by electronic transfer, a universal claim form customarily used by pharmaceutical service providers, or other form approved by the director [to the Department of Public Safety the department's copy] not later than the 30th day after the date the prescription was dispensed.

(f) A prescription for a Schedule II controlled substance written for a patient in a long-term care facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units. If there is any question about whether a patient may be classified as having a terminal illness, the pharmacist must contact the practitioner prior to partially filling the prescription. Both the pharmacist and the practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist must record ~~[on]~~ the prescription on an official prescription form and must indicate on the form whether the patient is "terminally ill" or an "LTCF patient." A prescription that is partially filled and does not contain the notation "terminally ill" or "LTCF patient" shall be deemed to have been filled in violation of this Act. For each partial filling, the dispensing pharmacist shall record on the back of ~~[Copy 1 and Copy 2 of]~~ the official prescription form the date of the partial filling, the quantity dispensed, the remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. Prior to any subsequent partial filling, the pharmacist is to determine that the additional partial filling is necessary. The total quantity of Schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions for patients in a long-term care facility or patients with a medical diagnosis documenting a terminal illness shall be valid for a period not to exceed 30 days from the issue date unless sooner terminated by discontinuance of the medication.

(m) A pharmacist may permit the delivery of a controlled substance by an authorized delivery person, by a person known to the pharmacist, a pharmacist intern, or the authorized delivery person, or by mail to the person or address of the person authorized by the prescription to receive the controlled substance. If a pharmacist permits delivery of a controlled substance under this subsection, the pharmacist shall retain in the records of the pharmacy for a period of not less than two years:

(1) the name of the authorized delivery person, if delivery is made by that person;

(2) the name of the person known to the pharmacist, a pharmacist intern, or the authorized delivery person if delivery is made by that person; or

(3) the mailing address to which delivery is made, if delivery is made by mail.

(n) A pharmacist may permit the delivery of a controlled substance to a person not known to the pharmacist, a pharmacist intern, or the authorized delivery person without first requiring the identification of the person to whom the controlled substance is delivered if the pharmacist determines that an emergency exists and that the controlled substance is needed for the immediate well-being of the patient for whom the controlled substance is prescribed. If a pharmacist permits delivery of a controlled substance under this subsection, the pharmacist shall retain in the records of the pharmacy for a period of not less than two years all information relevant to the delivery known to the pharmacist, including the name, address, and date of birth or age of the person to whom the controlled substance is delivered. The pharmacist shall also retain in the records of the pharmacy for a period of not less than two years the

patient identification number of the person to whom the controlled substance is delivered if the person has such a number and that number is required by the prescribing practitioner.

SECTION _____. Section 481.075, Health and Safety Code, is amended to read as follows:

Sec. 481.075. OFFICIAL [TRIPLICATE] PRESCRIPTION PROGRAM.

(a) A practitioner who prescribes a controlled substance listed in Schedule II shall, except as provided by rule adopted under Section 481.0761, record the prescription on a prescription form that includes the information required by this section and affix to the form a prescription sticker issued by the director under this section [that meets the requirements of Subsection (b)].

(b) Each prescription sticker must be sequentially numbered and produced in a manner that makes impossible removal of the sticker from the prescription form to which it is affixed.

(c) The director [Department of Public Safety] shall issue prescription stickers [the forms] to practitioners for a fee covering the actual cost of printing, [and] processing [the forms], and mailing [containers, and binders and the actual cost of mailing] the stickers [forms] at 100 stickers [forms] a package. Before mailing or otherwise delivering prescription stickers [forms] to a practitioner, the director [department] shall print on each sticker the number of the sticker and any other information the director determines is necessary [forms the practitioner's name, address, Department of Public Safety registration number, and Federal Drug Enforcement Administration number].

(d) A person may not obtain a [the] prescription sticker [forms] unless the person is a practitioner as defined by Section 481.002(39)(A) or an institutional practitioner.

(e) [(b)] Each prescription form used to prescribe a Schedule II controlled substance must [be serially numbered and in triplicate, with the original copy labeled "Copy 1," the duplicate copy labeled "Copy 2," and the triplicate copy labeled "Copy 3." Each form must] contain [spaces for]:

(1) information provided by the prescribing practitioner, including:

(A) the date the prescription is written;

(B) [(2) the date the prescription is filled;

[(3)] the controlled substance [drug] prescribed;

(C) the quantity of controlled substance prescribed, shown numerically followed by the number written as a word;

(D) the intended use of the controlled substance or the diagnosis for which it is prescribed[, the dosage,] and the instructions for use of the substance;

(E) [(4)] the practitioner's name, address, and Federal Drug Enforcement Administration number [of the dispensing pharmacy and the name of the pharmacist who fills the prescription]; and

(F) [(5)] the name, address, date of birth or [and] age, and patient identification number of the person for whom the controlled substance is prescribed;

(2) information provided by the dispensing pharmacist, including the date the prescription is filled; and

(3) the signatures of the prescribing practitioner and the dispensing pharmacist.

(f) ~~(e)~~ Not more than one prescription may be recorded on an official [a] prescription form, except as provided by rule adopted under Section 481.0761.

(g) ~~(f)~~ Except for oral prescriptions prescribed under Section 481.074(b), the prescribing practitioner shall:

(1) legibly fill in, or direct a designated agent to legibly fill in, on ~~[all three copies of]~~ the official prescription form, each item of information required to be [in the space] provided by the prescribing practitioner under Subsection (e)(1), unless the practitioner determines that:

(A) under rule adopted by the director for this purpose, it is unnecessary for the practitioner or the practitioner's agent to provide the patient identification number [the date the prescription is written]; or

(B) it is not in the best interest of the patient for the practitioner or practitioner's agent to provide information regarding [the drug prescribed, the quantity (shown numerically followed by the number written as a word), instructions for use, and] the intended use of the controlled substance [drug] or the diagnosis for which it [the controlled substance] is prescribed; and

~~[(C) the name, address, and age of the patient or, in the case of an animal, its owner, for whom the controlled substance is prescribed;]~~

(2) sign ~~[Copies 1 and 2 of]~~ the official prescription form and give the form [them] to the person authorized to receive the prescription[; and

~~[(3) retain Copy 3 of the form with the practitioner's records for at least two years after the date the prescription is written].~~

(h) ~~(g)~~ In the case of an oral prescription prescribed under Section 481.074(b), the prescribing practitioner shall give the dispensing pharmacy the information needed to complete the form.

(i) ~~(h)~~ Each dispensing pharmacist shall:

(1) fill in on ~~[Copies 1 and 2 of]~~ the official prescription form each item of [in the space provided the] information given orally to the dispensing pharmacy under Subsection (h), the date the prescription is filled, and the dispensing pharmacist's signature [not required to be filled in by the prescribing practitioner or the Department of Public Safety];

(2) ~~[indicate the total quantity dispensed on the face of the triplicate prescription form;~~

~~[(3)]~~ retain ~~[Copy 2]~~ with the records of the pharmacy for at least two years:

(A) the official prescription form; and

(B) the name or other patient identification required by Section 481.074(m) or (n); and

(3) ~~[(4) sign Copy 1 and]~~ send all information required by the director, including any information required to complete an official prescription form, [it] to the director by electronic transfer, a universal claim form customarily used by pharmaceutical service providers, or other form approved by the director [Department of Public Safety] not later than the 30th day after the date the prescription is filled or not later than the 30th day after the completion of a prescription dispensed under Section 481.074(f).

(j) ~~(i)~~ A medication order written for a patient who is admitted to a hospital at the time the medication order is written and filled is not required to be on a form that meets the requirements of this section.

(k) ~~(h)~~ Not later than the 30th ~~seventh~~ day after the date a practitioner's ~~department~~ ~~Department of Public Safety~~ registration number, Federal Drug Enforcement Administration number, or license to practice has been denied, suspended, canceled, surrendered, or revoked, the practitioner shall return to the department all prescription stickers ~~forms~~ in the practitioner's possession that ~~are issued under Subsection (a) and~~ have not been used for prescriptions.

(l) Each prescribing practitioner:

(1) may use a prescription sticker only to prescribe a controlled substance;

(2) shall date or sign an official prescription form only on the date the prescription is issued; and

(3) shall take reasonable precautionary measures to ensure that a prescription sticker issued to the practitioner is not used by another person to violate this subchapter or a rule adopted under this subchapter.

(m) A pharmacy in this state may fill a prescription for a controlled substance listed in Schedule II issued by a practitioner in another state if:

(1) a substantial share of the pharmacy's business involves the dispensing and mailing of controlled substances;

(2) the prescription is issued by a prescribing practitioner in the other state in the ordinary course of practice; and

(3) the prescription is filled in compliance with a written plan providing the manner in which the pharmacy may fill a Schedule II prescription issued by a practitioner in another state that:

(A) is submitted by the pharmacy to the director; and

(B) is approved by the director in consultation with the Texas State Board of Pharmacy.

(n) This section expires September 1, 2003.

~~[(i) The director may adopt rules to implement this section and Section 481.076.]~~

SECTION _____. Section 481.076, Health and Safety Code, is amended to read as follows:

Sec. 481.076. OFFICIAL ~~TRIPPLICATE~~ PRESCRIPTION INFORMATION. (a) The director may not permit any person to have access to information submitted to the director ~~Department of Public Safety~~ under Section 481.075 except:

(1) an investigator ~~investigators~~ for the Texas State Board of Medical Examiners, the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, or the Texas State Board of Pharmacy; ~~or~~

(2) an authorized officer or member ~~officers~~ of the department ~~Department of Public Safety~~ engaged in the administration, investigation, or enforcement of ~~[suspected criminal violations of]~~ this chapter or another law governing illicit drugs in this state or another state; or

(3) if the director finds that proper need has been shown to the director:

(A) a law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(B) a pharmacist or practitioner who is a physician, dentist, veterinarian, or podiatrist and is inquiring about the recent Schedule II prescription history of a particular patient of the practitioner; or

(C) a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity [~~who obtain access with the approval of an investigator listed in Subdivision (1)].~~

(b) This section does not prohibit the director from creating, using, or disclosing statistical data about information received by the director under this section if the director removes any information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a subject of the information. [~~An investigator listed in Subsection (a)(1) shall cooperate with and assist the authorized officers of the Department of Public Safety in obtaining information for investigations of suspected criminal violations of this chapter.~~]

(c) The director by rule [~~Department of Public Safety~~] shall design and implement a system for submission of information to the director by electronic or other means and for retrieval of information submitted to the director [~~department~~] under this section and Section 481.075. The director [~~department~~] shall use automated information security techniques and devices to preclude improper access to the information. The director shall submit the system design to the Texas State Board of Pharmacy and the Texas State Board of Medical Examiners for review and approval or comment a reasonable time before implementation of the system and shall comply with the comments of those agencies unless it is unreasonable to do so.

(d) Information submitted to the director [~~Department of Public Safety~~] under this section may be used only for:

(1) the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(2) [drug-related criminal investigatory or evidentiary purposes or for] investigatory or evidentiary purposes in connection with the functions of an agency listed in Subsection (a)(1); or

(3) dissemination by the director to the public in the form of a statistical tabulation or report if all information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a subject of the information has been removed.

(e) The director [~~Department of Public Safety~~] shall remove from the information retrieval system, destroy, and make irretrievable the record of the identity of a patient submitted under this section to the director [~~department~~] not later than the end of the 12th calendar month after the month in which the identity is entered into the system. However, the director [~~department~~] may retain a patient identity that is necessary for use in a specific ongoing investigation conducted in accordance with this section until the 30th day after the end of the month in which the necessity for retention of the identity ends.

(f) If the director permits access to information under Subsection (a)(2) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director shall notify and cooperate with that agency regarding the disposition of the matter before taking action against the person, unless the director determines that notification is reasonably likely to interfere with an administrative or criminal investigation or prosecution.

(g) If the director permits access to information under Subsection (a)(3)(A) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director shall notify that agency of the disclosure of the information not later than the 10th working day after the date the information is disclosed unless:

(1) the person to whom the information is disclosed requests the director to withhold notification to the agency; and

(2) the director determines that notification is reasonably likely to interfere with an administrative or criminal investigation or prosecution.

(h) If the director withholds notification to an agency under Subsection (g), the director shall notify the agency of the disclosure of the information and the reason for withholding notification when the director determines that notification is no longer likely to interfere with an administrative or criminal investigation or prosecution.

(i) Information submitted to the director under Section 481.075 is confidential and remains confidential regardless of whether the director permits access to the information under this section.

(j) This section expires September 1, 2003. [The department shall report semiannually, based on the state fiscal year, to the Legislative Budget Board certifying that this subsection has been complied with and setting forth in detail the results of monthly audits showing that identities have been removed from the system and made irretrievable in compliance with this subsection. The department shall correct any failure to comply with this subsection as soon as practicable after discovery. A person who is responsible for a failure to comply with this subsection is subject to disciplinary action, including dismissal.]

SECTION _____. Subchapter C, Chapter 481, Health and Safety Code, is amended by adding Section 481.0761 to read as follows:

Sec. 481.0761. RULES; AUTHORITY TO CONTRACT. (a) The director shall consult with the Texas State Board of Pharmacy and by rule establish and revise as necessary a standardized database format that may be used by a pharmacy to transmit the information required by Section 481.075(i) to the director electronically or to deliver the information on storage media, including disks, tapes, and cassettes.

(b) The director shall consult with the Texas Department of Health, the Texas State Board of Pharmacy, and the Texas State Board of Medical Examiners and by rule may:

(1) remove a controlled substance listed in Schedule II from the official prescription program, if the director determines that the burden imposed by the program substantially outweighs the risk of diversion of the particular controlled substance; or

(2) return a substance previously removed from Schedule II to the official prescription program, if the director determines that the risk of diversion substantially outweighs the burden imposed by the program on the particular controlled substance.

(c) The director by rule may:

(1) permit more than one prescription to be administered or dispensed and recorded on one official prescription form;

(2) remove from or return to the official prescription program any

aspect of a practitioner's or pharmacist's hospital practice, including administering or dispensing;

(3) waive or delay any requirement relating to the time or manner of reporting;

(4) establish compatibility protocols for electronic data transfer hardware, software, or format;

(5) establish a procedure to control the release of information under Sections 481.075 and 481.076; and

(6) establish a minimum level of prescription activity below which a reporting activity may be modified or deleted.

(d) The director by rule shall authorize a practitioner to determine whether it is necessary to obtain a particular patient identification number and to provide that number on the official prescription form.

(e) In adopting a rule relating to the electronic transfer of information under this subchapter, the director shall consider the economic impact of the rule on practitioners and pharmacists and, to the extent permitted by law, act to minimize any negative economic impact, including the imposition of costs related to computer hardware or software or to the transfer of information. The director may not adopt a rule relating to the electronic transfer of information under this subchapter that imposes a fee in addition to the fee authorized by Section 481.064.

(f) The director may authorize a contract between the department and another agency of this state or a private vendor as necessary to ensure the effective operation of the official prescription program.

(g) This section expires September 1, 2003.

SECTION _____. Section 481.127(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person [~~intentionally or~~] knowingly gives, permits, or obtains unauthorized access to information submitted to the director [~~Department of Public Safety~~] under Section 481.075.

SECTION _____. Section 481.129(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly [~~or intentionally~~]:

(1) distributes as a registrant or dispenser a controlled substance listed in Schedule I or II, unless the person distributes the controlled substance under an order form as required by Section 481.069;

(2) uses in the course of manufacturing, prescribing, or distributing a controlled substance a registration number that is fictitious, revoked, suspended, or issued to another person;

(3) uses a [~~triplicate~~] prescription sticker [~~form~~] issued to another person to prescribe a Schedule II controlled substance;

(4) possesses or attempts to possess a controlled substance:
(A) by misrepresentation, fraud, forgery, deception, or subterfuge;

(B) through use of a fraudulent prescription form; or

(C) through use of a fraudulent oral or telephonically communicated prescription; or

(5) furnishes false or fraudulent material information in or omits material information from an application, report, record, or other document required to be kept or filed under this chapter.

SECTION _____. Section 552.118, Government Code, is amended to read as follows:

Sec. 552.118. EXCEPTION: OFFICIAL [~~TRIPPLICATE~~] PRESCRIPTION FORM. Information is excepted from the requirements of Section 552.021 if it is information on or derived from an official [~~a triplicate~~] prescription form filed with the director of the Department of Public Safety under Section 481.075, Health and Safety Code.

SECTION _____. Section 3.06(d)(6)(J)(i), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

(i) A physician may delegate to a physician assistant offering obstetrical services and certified by the board as specializing in obstetrics or an advanced nurse practitioner recognized by the Texas State Board of Nurse Examiners as a nurse midwife the act or acts of administering or providing controlled substances to the nurse midwife's or physician assistant's clients during intra-partum and immediate post-partum care. The physician may [~~shall~~] not delegate the use of a prescription sticker or the use or issuance of an official [~~a triplicate~~] prescription form under [~~the triplicate prescription program;~~] Section 481.075, Health and Safety Code.

(3) Strike SECTIONS 29, 30, and 31 of the bill and substitute the following appropriately numbered SECTIONS to the bill:

SECTION _____. Except as otherwise provided by this Act, this Act takes effect January 1, 1998.

SECTION _____. Not later than December 1, 1997, the commissioner of public health shall file with the secretary of state for publication in the Texas Register a list of substances designated in Schedules I through V under Subchapter B, Chapter 481, Health and Safety Code, as amended by this Act. The list shall take effect January 1, 1998. A schedule in effect immediately before the effective date of this Act continues in effect until January 1, 1998. This section takes effect September 1, 1997.

SECTION _____. The changes in law made by this Act relating to a prescription written under the triplicate prescription program take effect September 1, 1999, except that Section 481.0761, Health and Safety Code, as added by this Act, takes effect September 1, 1997. The director of the Department of Public Safety by rule may permit the use of triplicate or single prescription forms during a period of transition, but not after March 1, 1999.

SECTION _____. The change in law made by this Act does not affect any retention, use, or destruction requirement of Section 481.075 or 481.076, Health and Safety Code, that relates to a prescription written under the triplicate prescription program before September 1, 1999. A provision of those sections relating to retention of a triplicate record by a practitioner or pharmacist or the use or destruction of information obtained through the triplicate prescription program by the Department of Public Safety continues in effect for the purpose of governing the disposition of any triplicate prescription record or any information arising from a triplicate prescription written before September 1, 1999.

SECTION _____. (a) Except as provided by Subsection (b) of this section, a change in law made by this Act applies only to an offense committed on or after September 1, 1997. An offense committed before September 1, 1997, is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

(b) A change in law made by this Act to Section 481.127(a), 481.128(a), or 481.129(a), Health and Safety Code, applies only to an offense committed under that section on or after September 1, 1999. An offense committed under one of those sections before September 1, 1999, is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

(c) For purposes of Subsection (a) or (b) of this section, an offense was committed before September 1, 1997, or before September 1, 1999, if any element of the offense occurred before that date.

SECTION _____. The change in law made by this Act to Section 3.06(d)(6)(J)(i), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), does not affect the dispensing of a Schedule II controlled substance by a pharmacist to:

(1) a certified registered nurse anesthetist for use in providing anesthesia or anesthesia-related services under the Medical Practice Act; or

(2) a certified nurse midwife or a physician assistant certified by the Texas State Board of Medical Examiners as specializing in obstetrics for use in administering a Schedule II controlled substance to a client during the provision of intra-partum and immediate postpartum care under the Medical Practice Act.

(4) Renumber the existing SECTIONS of the bill accordingly.

HB 1637 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1637, A bill to be entitled An Act relating to increased penalties for fraudulent or other unlawful acts committed under the state Medicaid program that result in injury to a child.

On motion of Representative Alvarado, the house concurred in the senate amendments to **HB 1637**.

(Gallego in the chair)

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

Amend **HB 1637** as follows:

(1) In SECTION 1 of the bill, in amended Section 32.039(b)(3)(A), Human Resources Code (House Engrossment page 1, line 21), between "to" and "a", insert "an elderly person, as defined by Section 48.002(1), a disabled person, as defined by Section 48.002(8)(A), or".

(2) In SECTION 1 of the bill, in amended Section 32.039(b)(3)(B), Human Resources Code (House Engrossment page 2, lines 1 and 2), strike "younger than 18 years of age" and substitute "described by Paragraph (A)".

(3) In SECTION 1 of the bill, in proposed Section 32.039(s), Human Resources Code (House Engrossment page 2, line 4), between "to" and "a", insert "an elderly person, as defined by Section 48.002(1), a disabled person, as defined by Section 48.002(8)(A), or".

(4) In SECTION 1 of the bill, in proposed Section 32.039(s), Human Resources Code (House Engrossment page 2, line 10), immediately following the last sentence, insert "This subsection does not apply to a person who operates a nursing facility."

(5) In SECTION 2 of the bill (House Engrossment page 2, line 12), strike "32.043" and substitute "32.047".

(6) In SECTION 2 of the bill, in proposed Section 32.043, Human Resources Code (House Engrossment page 2, line 13), strike "32.043" and substitute "32.047".

(7) In SECTION 2 of the bill, in proposed Section 32.043(2), Human Resources Code (House Engrossment page 2, line 19), between "to" and "a", insert "an elderly person, as defined by Section 48.002(1), a disabled person, as defined by Section 48.002(8)(A), or".

(8) In SECTION 3 of the bill, in amended Section 36.004(a)(3)(A), Human Resources Code (House Engrossment page 3, line 9), between "to" and "a", insert "an elderly person, as defined by Section 48.002(1), a disabled person, as defined by Section 48.002(8)(A), or".

(9) In SECTION 3 of the bill, in amended Section 36.004(a)(3)(B), Human Resources Code (House Engrossment page 3, line 12), strike "younger than 18 years of age" and substitute "described by Paragraph (A)".

(10) In SECTION 4 of the bill, in amended Section 36.009(a)(1)(A), Human Resources Code (House Engrossment page 3, line 25), between "person" and "found", insert ", other than a person who operates a nursing facility,".

(11) In SECTION 4 of the bill, in amended Section 36.009(a)(1)(A), Human Resources Code (House Engrossment page 3, lines 25-27), strike "for an unlawful act that resulted in injury to a person younger than 18 years of age".

(12) In SECTION 4 of the bill, in amended Section 36.009(a)(1)(B), Human Resources Code (House Engrossment page 4, line 2), between "person" and "found", insert ", other than a person who operates a nursing facility,".

(13) In SECTION 4 of the bill, in amended Section 36.009(a)(1)(B), Human Resources Code (House Engrossment page 4, lines 3 and 4), strike "for an unlawful act that resulted in injury to a person younger than 18 years of age".

(14) In SECTION 4 of the bill, in amended Section 36.009(a)(2)(A), Human Resources Code (House Engrossment page 4, line 7), between "person" and "found", insert "who operates a nursing facility".

(15) In SECTION 4 of the bill, in amended Section 36.009(a)(2)(B), Human Resources Code (House Engrossment page 4, lines 8 and 9), strike "for an unlawful act that does not result in injury to a person younger than 18 years of age".

(16) In SECTION 4 of the bill, in amended Section 36.009(a)(2)(B), Human Resources Code (House Engrossment page 4, line 11), between "person" and "found", insert "who operates a nursing facility".

(17) In SECTION 4 of the bill, in amended Section 36.009(a)(2)(B), Human Resources Code (House Engrossment page 4, lines 12 and 13), strike "for an unlawful act that does not result in injury to a person younger than 18 years of age".

(18) In SECTION 4 of the bill, in amended Section 36.009(b), Human Resources Code (House Engrossment page 4, lines 14 and 15), strike "that resulted in injury to a person younger than 18 years of age".

(19) In SECTION 4 of the bill, in amended Section 36.009(b), Human Resources Code (House Engrossment page 4, line 18), strike "part of the state" and substitute "part of the".

(20) In SECTION 4 of the bill, in amended Section 36.009(b), Human Resources Code (House Engrossment page 4, line 22), immediately following the last sentence, insert "This subsection does not apply to a person who operates a nursing facility."

(21) In SECTION 7 of the bill (House Engrossment page 5, line 15), between "1997" and the period, insert ", but only if S.B. No. 30, Acts of the 75th Legislature, Regular Session, 1997, does not become law".

Senate Amendment No. 2

Amend Committee Amendment No. 1 to **HB 1637** as follows:

(1) Strike Item 15 and substitute the following:

"(15) In SECTION 4 of the bill, in amended Section 36.009(a)(2)(A), Human Resources Code (House Engrossment page 4, lines 8 and 9—committee printing page 3, lines 47 and 48), strike "for an unlawful act that does not result in injury to a person younger than 18 years of age"."

HB 1909 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1909, A bill to be entitled An Act relating to the methods used to extend the period of supported employment for recipients of Temporary Assistance for Needy Families.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 1909**.

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

Amend **HB 1909** (engrossed version) as follows:

(1) On page 1 of the bill, lines 10 and 11, strike "subject to the availability of funds, shall" and substitute "may".

(2) On page 1, between lines 14 and 15, insert the following and reletter subsequent subsections appropriately.

(b) The department may limit the percentage of earnings disregarded, impose a time limit on how long the earnings are disregarded or gradually reduce the percentage of earnings disregarded in order to remain within available funding.

(c) Funding for earnings disregards may also come from savings associated with sanctions related to noncompliance with the personal responsibility

agreement and work requirements in this chapter, from savings resulting from caseload declines below projections specified in the Appropriations bill, and from Temporary Assistance for Needy Families (TANF) block grant funds.

**HB 1917 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1917, A bill to be entitled An Act relating to the powers and duties of the Texas Juvenile Probation Commission and of juvenile boards.

On motion of Representative Goodman, the house concurred in the senate amendments to **HB 1917**.

Senate Amendment No. 1

Amend **HB 1917** as follows:

Delete SECTION 2 of the bill in its entirety and renumber remaining SECTIONS appropriately.

Senate Amendment No.2

Amend SECTION 6 of **HB 1917** as follows:

On page 2, line 33, after the words "amount spent", insert the following: ", excluding construction and capital outlay expenses.".

**HB 2017 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2017, A bill to be entitled An Act relating to telemedicine services provided under the Medicaid and Medicare programs.

Representative Maxey 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 2017**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2017**: Maxey, chair, Hirschi, Coleman, Davila, and Glaze.

**HB 2063 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Van de Putte called up with senate amendments for consideration at this time,

HB 2063, A bill to be entitled An Act relating to coverage under a group health benefit plan for diagnosis and treatment of certain conditions affecting the temporomandibular joint.

On motion of Representative Van de Putte, the house concurred in the senate amendments to **HB 2063**.

Senate Amendment No. 1

Amend **HB 2063** follows:

(1) In Section 2(a)(1)(A)(iv), Article 21.53A, Insurance Code, as added by SECTION 1 of the bill (page 1, line 31, Senate Committee Report Printing), strike "Chapter 22 of this code" and substitute "Chapter 22 of this code; or".

(2) In Section 2(a)(1)(A), Article 21.53A, Insurance Code, as added by SECTION 1 of the bill (page 1, lines 32-33, Senate Committee Report Printing), strike Subparagraph (v).

(3) In Section 2(a)(1)(A), Article 21.53A, Insurance Code, as added by SECTION 1 of the bill, (page 1, line 34, Senate Committee Report Printing), strike "(vi)" and substitute "(v)".

(4) In Section 2(b)(1), Article 21.53A, Insurance Code, as added by SECTION 1 of the bill, (page 2, between lines 5 and 6, Senate Committee Report Printing), insert a new Subdivision (4) to read as follows and renumber the subsequent subdivisions appropriately:

"(4) a small employer plan written under Chapter 26 of this code;".

**HB 2086 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2086, A bill to be entitled An Act relating to the operation of charitable bingo games.

Representative Palmer 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 2086**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2086**: Palmer, chair, Tillery, D. Jones, Pickett, and Yarbrough.

**HB 2146 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2146, A bill to be entitled An Act relating to studying minority participation in public higher education.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 2146** by (Record 502): 121 Yeas, 17 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Burnam; Carter; Chavez; Chisum; Christian; Coleman; Cook; Counts; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Finnell; Flores; Galloway; Garcia;

Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Hamric; Hawley; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hodge; Holzheuser; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Naishtat; Oakley; Oliveira; Olivo; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Serna; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Wise; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Clark; Corte; Crabb; Denny; Elkins; Grusendorf; Hartnett; Horn; Madden; Mowery; Nixon; Seaman; Shields; Siebert; Staples; Williams; Wohlgemuth.

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

Absent, Excused, Committee Meeting — Brimer; Craddick; Hochberg; Sadler; Stiles.

Absent — Haggerty; Heflin; Palmer; Wilson.

STATEMENT OF VOTE

I was shown voting yes on Record No. 502. I intended to vote no.

Talton

Senate Committee Substitute

CSHB 2146, A bill to be entitled An Act relating to studying minority participation in public higher education.

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

SECTION 1. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.080 to read as follows:

Sec. 61.080. CONTINUING STUDY OF MINORITY PARTICIPATION IN HIGHER EDUCATION. (a) The board shall collect data and maintain a database relating to the participation of members of racial and ethnic minority groups in this state in public higher education, including data relating to minority applications, recruitment, admissions, retention, graduation, and professional licensing at both the undergraduate and graduate levels.

(b) The board shall maintain a continuous study of the data collected under Subsection (a) and of factors affecting that data.

(c) In order to avoid duplication with any other study by the office of the comptroller, the board shall, through a memorandum of understanding, work in conjunction with the comptroller in conducting the study.

SECTION 2. (a) The Texas Higher Education Coordinating Board shall institute and coordinate a study of the effects of recent actions on the rates at which members of racial and ethnic minority groups in this state apply for or are admitted to public institutions of higher education in this state.

(b) The study shall consider any factors the coordinating board can identify

that may have affected or be affecting those application and admission rates, including:

(1) recent legal developments, including the 1996 decision of the U.S. 5th Circuit Court of Appeals in Hopwood v. State;

(2) recent changes in application or student recruiting procedures by public institutions of higher education; and

(3) recent changes in admissions standards or practices at public institutions of higher education.

(c) The study shall include recommendations for legislative or administrative actions that may be taken to encourage or achieve greater participation by members of racial and ethnic minority groups in higher education in this state.

(d) In conducting the study, the coordinating board may appoint advisory or other committees to assist in planning, conducting, or analyzing the study. A committee may include any educators, experts, or other persons willing to serve. The coordinating board may request the assistance of any state agency, office, department, or institution. Each public institution of higher education shall cooperate with the board in conducting the study.

(e) The coordinating board shall report its activities and the findings of the study to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1, 1998.

(f) This section expires January 1, 1999.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

HB 1477 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1477, A bill to be entitled An Act relating to immunity from liability for the directors of the Texas Catastrophe Property Insurance Association.

On motion of Representative Bonnen, the house concurred in the senate amendments to **HB 1477**.

Senate Amendment No. 1

Amend **HB 1477** as follows:

Strike SECTION 2 of the bill (committee printing page 1, lines 22-42) and substitute the following:

"SECTION 2. Section 10, Article 21.49, Insurance Code, is amended to read as follows:

Sec. 10. IMMUNITY FROM LIABILITY. (a) A director or officer of the Association is not individually liable for any act or failure to act in the performance of official duties in connection with the Association.

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

(1) an act or failure to act of an employee of the Association;
(2) an act or failure to act of the Association;
(3) an act or omission involving a motor vehicle; or
(4) an act or failure to act that constitutes bad faith, intentional misconduct or gross negligence.

(c) There shall be no liability on the part of and no cause of action of any nature shall arise against a director of the association, the Board or any of its staff, the Association or its agents or employees, or against any participating insurer or its agents or employees, for any inspections made under the plan of operation or any statements made in good faith by them in any reports or communications concerning risks submitted to the Association, or at any administrative hearings conducted in connection therewith under the provisions of this Act."

**HB 2482 - HOUSE CONCURS IN SENATE AMENDMENTS
 TEXT OF SENATE AMENDMENTS**

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

HB 2482, A bill to be entitled An Act relating to the establishment of an accreditation program for child-care facilities and child-placing agencies as an alternative to state licensure; providing a criminal penalty.

On motion of Representative Smithee, the house concurred in the senate amendments to **HB 2482**.

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

Amend **HB 2482** as follows:

1) On page 2, line 4, strike "and".
 2) On page 2, line 5, insert the following between "(2)" and "demonstrate":
not have any person serve as a member of the governing body of the accrediting organization who has a proprietary or financial interest in a child care facility or child-placing agency that is accredited by the accrediting organization; and

(3)

Senate Amendment No. 2

Amend **HB 2482** as follows:

Add the Section below by adding it to the bill appropriately and renumber remaining sections:

This Act is abolished unless reenacted by the Legislature in 4 years from date of enactment.

**HB 2522 - HOUSE CONCURS IN SENATE AMENDMENTS
 TEXT OF SENATE AMENDMENTS**

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

HB 2522, A bill to be entitled An Act relating to the operation of a motorcycle on a public street or highway.

On motion of Representative Finnell, the house concurred in the senate amendments to **HB 2522**.

(Speaker in the chair)

Senate Amendment No. 1

Amend **HB 2522**, SECTION 1, Section 547.801, page 1, line 14, by adding the following language after the word illuminated
, this requirement does not apply to motorcycles manufactured in England before the model year 1975

HB 2906 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 2906, A bill to be entitled An Act relating to the duties of the state auditor, state audits, and investigations.

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 2906**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 2906**: Wolens, chair, Ramsay, D. Jones, Hilbert, and Hunter.

HB 3016 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3016, A bill to be entitled An Act relating to the transfer of certain state property from the Texas Department of Criminal Justice to Jefferson County.

On motion of Representative Price, the house concurred in the senate amendments to **HB 3016** by (Record 503): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat;

Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused, Committee Meeting — Brimer; Craddick; Hochberg; Sadler; Stiles.

Senate Amendment No. 1

Amend **HB 3016** by adding a new SECTION 2 to read as follows, and renumbering the existing SECTIONS accordingly:

SECTION 2. (a) The Texas Department of Criminal Justice may donate and transfer to Walker County the real property described by subsection (d) of this section.

(b) The Texas Department of Criminal Justice may transfer the property by an appropriate instrument of transfer which must include a provision that:

(1) requires Walker County to use the property only for a purpose that benefits the public interest;

(2) indicates that ownership of the property will automatically revert to the Texas Department of Criminal Justice if Walker County uses the property for any purpose other than a purpose which benefits the public interest; and

(3) describes the property to be transferred by metes and bounds.

(c) The Texas Department of Criminal Justice shall retain custody of the instrument of transfer after its filing.

(d) The real property referred to in Subsection (a) of this section is a tract or parcel not to exceed ten acres of land situated in the city of Huntsville, out of and a part of the Pleasant Gray Survey, Abstract No. 24, Walker County, Texas, and being out of and a part of a called 515 acre tract as described in a Deed from Ed H. Cunningham, et al to the State of Texas (Texas Department of Corrections), dated June 23, 1883, and recorded in Volume Y, Page 181, Deed Records.

HB 3052 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3052, A bill to be entitled An Act relating to the liability of certain marine fire-fighting entities.

On motion of Representative Berlanga, the house concurred in the senate amendments to **HB 3052**.

Senate Amendment No. 1

Amend **HB 3052** as follows:

(1) In Section 78.051, Civil Practice and Remedies Code, as added by SECTION 1 of the bill, insert a new Subdivision (1) (page 1, between lines 21 and 22, Senate committee printing) to read as follows:

(1) "Fire emergency" means an emergency response involving fire protection or prevention, rescue, emergency medical, or hazardous material response services.

(2) In Section 78.051, Civil Practice and Remedies Code, as added by SECTION 1 of the bill, renumber Subdivision (1) as Subdivision (2), Subdivision (2) as Subdivision (3), and Subdivision (3) as Subdivision (4) (page 1, lines 22, 24, and 26, Senate committee printing).

(3) In Section 78.052(1), Civil Practice and Remedies Code, as added by SECTION 1 of the bill (page 1, line 47, Senate committee printing), at the end of Paragraph (A), strike "or".

(4) In Section 78.052(1), Civil Practice and Remedies Code, as added by SECTION 1 of the bill (page 1, line 50, Senate committee printing), at the end of Paragraph (B), strike "or".

(5) In Section 78.052(1), Civil Practice and Remedies Code, as added by SECTION 1 of the bill (page 1, between lines 50 and 51, Senate committee printing), following Paragraph (B), insert the following:

"(C) on property owned or under the control of the governmental unit; or

(D) at the request of the governmental unit in the interest of public safety; or".

HB 3087 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3087, A bill to be entitled An Act relating to the protection of defendants against vexatious litigants.

On motion of Representative Galloway, the house concurred in the senate amendments to **HB 3087**.

Senate Amentment No. 1

Amend **HB 3087** as follows:

(1) In SECTION 1, amend Section 11.051, Civil Practice and Remedies Code (committee printing, page 1, lines 34-35), by striking "at any time until final judgment is entered" and substituting "on or before the 90th day after the date the defendant files the original answer or makes a special appearance".

(2) In SECTION 1, amend Section 11.052, Civil Practice and Remedies Code (committee printing, page 1, lines 40-41), by striking "before the date the trial starts".

HB 3391 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3391, A bill to be entitled An Act relating to the licensing of banks as insurance agents and to certain nonresident agents; providing a penalty.

On motion of Representative Smithee, the house concurred in the senate amendments to **HB 3391** by (Record 504): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Hamric; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused, Committee Meeting — Brimer; Craddick; Hochberg; Sadler; Stiles.

Absent — Haggerty; Hernandez.

Senate Amendment No. 1

Amend **HB 3391** as follows:

In SECTION 22, Sec. 1, Subdivision (2) of the bill (page 17, lines 17 through 30, committee printing) strike Subdivision (2) in its entirety and substitute the following:

(2) "Bank" means a national banking association organized and existing under the National Bank Acts (12 U.S.C. Section 21 et seq.), a state bank organized and existing under the Texas Banking Act (Article 342-1.001 et seq., Vernon's Texas Civil Statutes), a state savings bank organized and existing under the Texas Savings Bank Act (Article 489e, Vernon's Texas Civil Statutes), a bank branch, or a bank operating subsidiary, as defined by state or federal law, that is located and doing business in this state in a place with a population of 5,000 or less.

HB 3563 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3563, A bill to be entitled An Act relating to procedures to issue rental car companies limited licenses as insurance agents.

On motion of Representative Smithee, the house concurred in the senate amendments to **HB 3563**.

Senate Amendment No. 1

Amend **HB 3563**, SECTION 1, page 1, line 14, by striking the word "may" and inserting the word "shall".

Senate Amendment No. 2

Amend **HB 3563**, SECTION 2, page 3, line 22, by inserting the following after "1997" and before the "." (period) at the end of that sentence:

, and applies to an insurance policy that is delivered, issued for delivery, or renewed on or after September 1, 1997. A policy delivered, issued for delivery, or renewed before September 1, 1997, is governed by the law as it existed prior to the effective date of this Act

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

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

(Craddick and Stiles now present)

POSTPONED BUSINESS

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

**SB 360 ON SECOND READING
(Stiles - House Sponsor)**

SB 360, A bill to be entitled An Act relating to the review and continuation of certain state agencies and laws subject to the Texas Sunset Act.

SB 360 was read second time on May 21, postponed until May 22, and was again postponed until 10 a.m. today.

Representative Stiles moved to postpone consideration of **SB 360** until 10 a.m. Saturday, May 23.

The motion prevailed without objection.

**CSSB 1898 ON SECOND READING
(Junell - House Sponsor)**

CSSB 1898, A bill to be entitled An Act relating to making emergency appropriations.

CSSB 1898 was read second time on May 19 and was postponed until 11 a.m. today.

Representative Junell moved to postpone consideration of **CSSB 1898** until 10 a.m. Monday, May 26.

The motion prevailed without objection.

**MAJOR STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 54 ON THIRD READING
(Gray, Greenberg, McCall, and Averitt - House Sponsors)**

SB 54, A bill to be entitled An Act relating to access to certain obstetrical or gynecological health care under a health benefit plan; providing administrative penalties.

SB 54 was passed.

**SB 253 ON THIRD READING
(Danburg, Driver, J. Jones, Rhodes, and Kubiak - House Sponsors)**

SB 253, A bill to be entitled An Act relating to the selection of telecommunications utilities by customers.

SB 253 was passed.

**SB 1417 ON THIRD READING
(Gallego - House Sponsor)**

SB 1417, A bill to be entitled An Act relating to judicial efficiency.

Amendment No. 1

On behalf of Representatives Thompson and Chisum, Representative Gallego offered the following amendment to **SB 1417**:

Amend **SB 1417**, on third reading, by striking Section 51.921(d), Government Code, as added by committee amendment 1 as amended on second reading, and substituting the following:

(d) The custodian of the county or municipal treasury, as appropriate, shall deposit 10 percent of the fees collected under this section in the general fund of the county or municipality for the purpose of improving the efficiency of the administration of justice in the county or municipality. The county or municipality shall prioritize the needs of the judicial officer who collected the fees when making expenditures under this subsection.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Isett offered the following amendment to **SB 1417**:

Amend **SB 1417** on Third Reading, as follows:

(1) In SECTION 2 of the bill, in proposed Subchapter D, Chapter 72, Government Code, strike proposed Sections 72.041 through 74.043, Government Code (House committee report, beginning on page 2, line 15, through page 4, line 21), and renumber subsequent proposed sections of that subchapter accordingly.

(2) Strike SECTION 4 of the bill.

(3) Renumber subsequent sections of the bill accordingly.

Amendment No. 2 was adopted without objection.

SB 1417, as amended, was passed. (Keel recorded voting no)

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 4** and **HJR 4**:

Stiles on motion of Wolens.

SB 46 ON THIRD READING (Wolens and Greenberg - House Sponsors)

SB 46, A bill to be entitled An Act relating to the punishment for certain defendants convicted of assaultive offenses, including sexual assault, and for certain offenses committed with intent to commit assaults.

SB 46 was passed.

MAJOR STATE CALENDAR SENATE BILLS SECOND READING

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

SB 162 ON SECOND READING (Raymond - House Sponsor)

SB 162, A bill to be entitled An Act relating to prevention and treatment of diabetes.

Amendment No. 1

Representative Raymond offered the following amendment to **SB 162**:

Amend **SB 162** as follows:

(1) Add a new article to the bill, appropriately numbered, to read as follows:

ARTICLE ____ . COMPOSITION OF THE TEXAS DIABETES COUNCIL
SECTION __.01. Section 103.005, Health and Safety Code, is amended to read as follows:

Sec. 103.005. TERMS. (a) Council members appointed by the governor serve for staggered six-year [~~four-year~~] terms, with the terms of four [~~six citizen~~] members [~~and two agency representatives~~] expiring February 1 of each odd-numbered year [~~and the terms of six citizen members and three agency representatives expiring February 1 of each even-numbered year~~].

(b) A council member appointed as a representative of an agency serves at the will of the appointing agency.

SECTION __.02. Section 103.008(a), Health and Safety Code, is amended to read as follows:

(a) The office of a member appointed by an agency becomes vacant when the person terminates employment with the agency or when the agency elects to replace the person as provided by Section 103.005.

SECTION __.03. (a) The Texas Diabetes Council is abolished on the effective date of this Act. As soon as possible after the effective date of this

Act, the governor and each state agency listed in Section 103.002, as appropriate, shall appoint a new Texas Diabetes Council to accomplish the membership plan for the commission established by this Act. This subsection does not prohibit the governor or a state agency from appointing to the council a person serving on the council on the effective date of this Act.

(b) In making appointments to the Texas Diabetes Council under Subsection (a) of this section, the governor shall appoint four members for terms expiring February 1, 1999, four members for terms expiring February 1, 2001, and four members for terms expiring February 1, 2003.

(2) Renumber articles and sections of the bill appropriately.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Madden offered the following amendment to **SB 162**:

Amend **SB 162** as follows:

On page 3, following line 25, add a new subsection "(3)" that incorporates this language, "Notwithstanding Section 172.014, Local Government Code, or any other law, this article applies to health and accident coverage provided by a risk pool created under Chapter 172, Local Government Code.", and renumber the lines of the subsequent text accordingly.

Amendment No. 2 was adopted without objection.

SB 162, as amended, was passed to third reading.

CSSB 1419 ON SECOND READING (Rangel - House Sponsor)

CSSB 1419, A bill to be entitled An Act relating to restrictions on the admission of certain persons promised or granted an athletic scholarship or similar financial assistance at a general academic teaching institution.

(Brimer now present)

MESSAGE FROM THE SENATE

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

CSSB 1419 - (consideration continued)

Amendment No. 1

Representative Janek offered the following amendment to **CSSB 1419**:

Amend **CSSB 1419** in SECTION 1 of the bill, in proposed Section 51.9245(b), Education Code, (Committee Printing page 1, line 13) between "assistance" and "conditioned", by inserting "funded with public money and".

LEAVES OF ABSENCE GRANTED

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

Rabuck on motion of Keel.

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

Pitts on motion of Walker.

CSSB 1419 - (consideration continued)

Representative Wilson moved to table Amendment No. 1.

The motion to table prevailed.

Amendment No. 2

Representative Uher offered the following amendment to **CSSB 1419**:

Amend **CSSB 1419** (House Committee Substitute), as follows:

(1) On page 1, line 13, after "assistance", add "that is funded by state appropriation.".

(2) On page 1, line 17, delete "that is funded by state revenue".

(3) On page 1, lines 19 to 23, delete "the applicant's high school grade point average is equal to or greater than the average high school grade point average of all entering freshman students at the institution for the academic year preceding the academic year for which the applicant seeks admission to the institution", and insert "the applicant has a 2.0 or greater high school grade point average.".

(4) On page 2, lines 1 to 4, delete "equal to or greater than the average cumulative college-level grade point average of all undergraduate students enrolled at the institution in the preceding academic year", and insert "2.0 or greater.".

(Hochberg now present)

Representative Wilson moved to table Amendment No. 2.

(D. Jones in the chair)

The motion to table prevailed.

Amendment No. 3

Representative Uher offered the following amendment to **CSSB 1419**:

Amend **CSSB 1419** (House Committee Substitute), as follows:

(1) On page 1, line 13, after "assistance", add "that is funded by state appropriation.".

(2) On page 1, line 17, delete "that is funded by state revenue".

(3) On page 2, between lines 4 and 5, insert a new Subsection (c) as follows:

"Subsection (b) only applies if the graduation rate of all students receiving athletic scholarships that exhaust their eligibility at the institution is less than the average graduation rate of all students at the institution."

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **HB 4** and **HJR 4**:

Brimer on motion of R. Lewis.

Hochberg on motion of R. Lewis.

CSSB 1419 - (consideration continued)

Representative Wilson moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 505): 73 Yeas, 64 Nays, 2 Present, not voting.

Yeas — Allen; Alvarado; Bailey; Berlanga; Bonnen; Bosse; Burnam; Chavez; Christian; Coleman; Cuellar; Davila; Davis; Delisi; Denny; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Flores; Garcia; Giddings; Goodman; Grusendorf; Gutierrez; Hernandez; Hinojosa; Hirschi; Hodge; Holzheuser; Horn; Jones, J.; King; Krusee; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McClendon; McReynolds; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Pickett; Place; Price; Puente; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Serna; Smith; Solis; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Van de Putte; Williamson; Wilson; Wise; Wolens.

Nays — Alexander; Averitt; Carter; Chisum; Cook; Corte; Counts; Crabb; Craddick; Culberson; Danburg; Driver; Dunnam; Elkins; Finnell; Gallego; Galloway; Glaze; Goolsby; Gray; Greenberg; Hamric; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Howard; Hunter; Hupp; Isett; Jackson; Janek; Junell; Kamel; Keel; Keffer; Kubiak; Kuempel; Madden; Marchant; McCall; Merritt; Moffat; Patterson; Ramsay; Roman; Seaman; Shields; Siebert; Smithee; Solomons; Staples; Swinford; Talton; Telford; Uher; Walker; West; Williams; Wohlgemuth; Woolley; Yarbrough.

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

Absent, Excused — Pitts; Rabuck.

Absent, Excused, Committee Meeting — Brimer; Hochberg; Sadler; Stiles.

Absent — Clark; Haggerty; Hartnett; Zbranek.

STATEMENT OF VOTE

When Record No. 505 was taken, I was in the house but away from my desk. I would have voted no.

Hartnett

Amendment No. 4

Representative Hilderbran offered the following amendment to **CSSB 1419**:

Amend **CSSB 1419** in SECTION 1, at the end of proposed Section 51.9245, Education Code, by inserting a new Subsection (c) to read as follows:

(c) This section does not apply in an academic year to athletic scholarships, grants, or similar financial assistance described by Subsection (b) that are funded by student fees at an institution for which the students at a general election held for that purpose within five years preceding the beginning of the academic year by majority vote of the students voting in the election have authorized student fees to be used for that purpose. The proposition at the

election must specify the maximum amount of fees per student or semester credit hour that may be used for those scholarships, grants, or similar financial assistance.

Representative Wilson moved to table Amendment No. 4.

The motion to table prevailed.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

CSSB 1419 - (consideration continued)

Amendment No. 5

Representative Corte offered the following amendment to **CSSB 1419**:

Amend **CSSB 1419** as follows:

1) On page 1, line 17, after "state", insert the word "appropriated".

(Hochberg now present)

Representative Wilson moved to table Amendment No. 5.

A record vote was requested.

The vote of the house was taken on the motion to table Amendment No. 5 and the vote was announced yeas 70, nays 66.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 506): 60 Yeas, 63 Nays, 3 Present, not voting.

Yeas — Allen; Alvarado; Bailey; Berlanga; Bosse; Burnam; Chavez; Coleman; Cuellar; Danburg; Davila; Davis; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Flores; Gallego; Garcia; Goodman; Gray; Greenberg; Gutierrez; Hernandez; Hinojosa; Hirschi; Hochberg; Hodge; Jones, J.; King; Lewis, G.; Lewis, R.; Longoria; Maxey; McClendon; McReynolds; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Price; Puente; Rangel; Raymond; Reyna, E.; Smith; Solis; Thompson; Torres; Van de Putte; Williamson; Wilson; Wise; Yarbrough.

Nays — Alexander; Averitt; Carter; Chisum; Cook; Corte; Counts; Crabb; Craddick; Culberson; Delisi; Denny; Finnell; Galloway; Goolsby; Grusendorf; Haggerty; Hamric; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Junell; Kamel; Keel; Keffer; Krusee; Kubiak; Kuempel; Madden; Marchant; McCall; Merritt; Moffat; Patterson; Ramsay; Rhodes; Roman; Shields; Siebert; Smithee; Solomons; Staples; Swinford; Talton; Telford; Uher; Walker; West; Williams; Wohlgemuth; Woolley; Zbranek.

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

Absent, Excused — Pitts; Rabuck.

Absent, Excused, Committee Meeting — Brimer; Sadler; Stiles.

Absent — Bonnen; Christian; Clark; Driver; Eiland; Elkins; Giddings;

Hartnett; Luna; Pickett; Place; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.; Wolens.

The chair stated that the motion to table Amendment No. 5 was lost by the above vote.

STATEMENTS OF VOTE

When Record No. 506 was taken, I was in the house but away from my desk. I would have voted no.

Hartnett

I was shown voting no on Record No. 506. I intended to vote yes.

Krusee

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Tillery on motion of Dunnam.

S. Turner on motion of Bosse.

Pickett on motion of Gallego.

Christian on motion of Williams.

The following members were granted leaves of absence for the remainder of today because of important business:

Luna on motion of Bailey.

B. Turner on motion of Counts.

Bonnen on motion of Burnam.

Seaman on motion of Alexander.

Eiland on motion of Janek.

A. Reyna on motion of Puente.

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

Driver on motion of West.

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

Serna on motion of Haggerty.

The following member was granted leave of absence for the remainder of today to attend his daughter's graduation:

Elkins on motion of Madden.

CSSB 1419 - (consideration continued)

(Brimer now present)

A record vote was requested.

Amendment No. 5 failed of adoption by (Record 507): 60 Yeas, 64 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Brimer; Carter; Chisum; Cook; Corte; Counts; Crabb; Craddick; Culberson; Delisi; Denny; Finnell; Galloway; Goolsby; Haggerty; Hamric; Hartnett; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Junell; Kamel; Keel; Keffer; Kubiak; Kuempel; Madden; Marchant; Merritt; Moffat; Ramsay; Roman; Shields; Siebert; Smith; Smithee; Staples; Swinford; Talton; Telford; Uher; Walker; West; Williams; Wohlgemuth; Woolley; Zbranek.

Nays — Alvarado; Bailey; Berlanga; Bosse; Burnam; Chavez; Coleman; Cuellar; Danburg; Davila; Davis; Dukes; Dunnam; Dutton; Edwards; Farrar; Gallego; Garcia; Glaze; Goodman; Gray; Greenberg; Grusendorf; Hawley; Hernandez; Hinojosa; Hirschi; Hochberg; Hodge; Jones, J.; King; Krusee; Lewis, G.; Lewis, R.; Longoria; Maxey; McCall; McClendon; McReynolds; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Place; Price; Puente; Rangel; Raymond; Reyna, E.; Rhodes; Solis; Solomons; Thompson; Torres; Van de Putte; Wilson; Wise; Wolens; Yarbrough.

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

Absent, Excused — Bonnen; Christian; Driver; Eiland; Elkins; Luna; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.

Absent, Excused, Committee Meeting — Sadler; Stiles.

Absent — Clark; Ehrhardt; Flores; Giddings; Gutierrez; Williamson.

STATEMENT OF VOTE

When Record No. 507 was taken, my vote failed to register. I would have voted no.

Williamson

Amendment No. 6

Representatives Dutton and Swinford offered the following amendment to **CSSB 1419**:

Amend **CSSB 1419** as follows:

(1) In SECTION 1 of the bill, in proposed Section 51.9245(b)(1), Education Code (House Committee Printing, page 1, lines 19 through 23), strike "is equal to or greater than the average high school grade point average of all entering freshman students at the institution for the academic year preceding the academic year for which the applicant seeks admission to the institution" and substitute "is equal to or greater than the minimum high school grade point average required by the institution for entering freshmen generally for the same entering freshman class".

(2) In SECTION 1 of the bill, in proposed Section 51.9245(b)(2), Education Code (House Committee Printing, page 2, lines 1 through 4), strike "is equal to or greater than the average cumulative college-level grade point average of all undergraduate students enrolled at the institution in the preceding academic year" and substitute "is equal to or greater than the minimum

cumulative college-level grade point average required by the institution for an undergraduate student enrolled at the institution to remain enrolled at the institution".

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Isett offered the following amendment to **CSSB 1419**:

Amend **CSSB 1419** on page 1, lines 19-20, strike "is equal to or greater than" and substitute "is not statistically different than or greater than".

Amendment No. 7 was withdrawn.

CSSB 1419, as amended, was passed to third reading. (Junell and Keel recorded voting no)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Thompson requested permission for the Committee on Judicial Affairs to meet at this time.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Judicial Affairs, at this time, speakers committee room.

**SB 1856 ON SECOND READING
(Chisum - House Sponsor)**

SB 1856, A bill to be entitled An Act relating to the inspection and maintenance of certain motor vehicles for air pollution control; providing criminal penalties.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Allen, Representative Chisum offered the following committee amendment to **SB 1856**:

Amend **SB 1856** by striking SECTIONS 19 and 20 of the bill and substituting:

SECTION 19. The changes in law made by this Act apply only to an offense committed or a violation of a statute or agency rule that occurs on or after the effective date of this Act. For purposes of this section, an offense occurs, or a violation of a statute or agency rule occurs, before the effective date of this Act if any element of the offense or violation occurs before that date, and the former law is continued in effect for that purpose.

SECTION 20. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Chisum offered the following amendment to **SB 1856**:

Amend **SB 1856** as follows:

(1) Between existing SECTIONS 1 and 2 (House Committee Report, page 2, between lines 1 and 2), insert the following appropriately numbered section:

SECTION _____. Section 382.0622(a), Health and Safety Code, is amended to read as follows:

(a) Clean Air Act fees consist of:

(1) fees collected by the commission under Sections 382.062, 382.0621, and 382.037 and as otherwise provided by law; ~~and~~

(2) \$2 of each advance payment collected by the Department of Public Safety for inspection certificates for vehicles other than mopeds under Section 548.501(b), Transportation Code; and

(3) fees imposed under Section 548.501(c), Transportation Code [~~141(c), Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes)~~].

(2) Between existing SECTIONS 11 and 12 of the bill (House Committee Report, page 19, between lines 10 and 11), insert the following appropriately numbered section:

SECTION _____. Section 548.501, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c) and Sections 548.503 and 548.504, the fee for inspection of a motor vehicle other than a moped is \$10.50. The fee for inspection of a moped is \$5.75. The fee for a verification form issued as required by Section 548.256 is \$1.

(c) An additional emissions fee of \$2 shall be added to the fee provided by Subsection (a) for the inspection of a motor vehicle other than a moped in a county in a non attainment area. Each amount listed in Subsection (b) is increased by \$2 for inspections and inspection certificates in a county in a nonattainment area. The additional fee is payable to the department at the times and in the manner fees under Subsection (b) are paid. The fee provided by this subsection may not be collected for an inspection that occurs after August 31, 2001.

(3) Between existing SECTIONS 16 and 17 of the bill (House Committee Report, page 26, between lines 13 and 14), insert the following appropriately numbered section:

SECTION _____. (a) Notwithstanding Section 26.3573, Water Code, and Sections 361.133 and 382.0622, Health and Safety Code, amounts in the petroleum storage tank remediation fund, the hazardous and solid waste remediation fee fund, or the clean air account may be appropriated for the purpose of paying settlements of claims or judgments against the state in connection with contracts for the vehicle emissions inspection program.

(b) The authority provided by this section expires September 1, 2001.

(4) In existing SECTION 19 of the bill, strike Subsection (c) (House Committee Report, page 27, line 24) and substitute the following:

(c) This section and the section authorizing payment of settlements of claims and judgments against the state from certain funds and accounts take effect immediately.

(5) Renumber sections of the bill accordingly and change cross-references in SECTION 19(a) of the bill as appropriate.

(Speaker pro tempore in the chair)

LEAVES OF ABSENCE GRANTED

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

Gutierrez on motion of Cuellar.

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

Denny on motion of Nixon.

SB 1856 - (consideration continued)

Amendment No. 3

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

Amend Floor Amendment No. 2 (by Chisum) to **SB 1856** as follows:

(1) On page 2, line 5, of the amendment, strike "\$2" and substitution "\$1".

(2) On page 2, line 7, of the amendment, strike "in a county in a nonattainment area".

(3) On page 2, line 8, of the amendment, strike "\$2" and substitute "\$1".

(4) On page 2, lines 9 and 10, of the amendment, strike "in a county in a nonattainment area".

(5) On page 2 of the amendment, strike lines 12 and 13 and substitute the following:

are paid. The fee provided by this subsection may not be collected for an inspection that occurs after the date the comptroller certifies that the debt is satisfied.

Amendment No. 3 was adopted without objection. (Puente recorded voting no)

Amendment No. 2, as amended, was adopted without objection.

Amendment No. 4

Representative Horn offered the following amendment to **SB 1856**:

Amend **SB 1856** as follows:

(1) In Section 2 of the bill, proposed Subsection (a), Section 502.009, Transportation Code, at the end of the second sentence of the subsection, between "required" and the period (house committee report, page 2, line 16), insert "and the United States Environmental Protection Agency does not impose requirements upon this state that are more stringent than the requirements imposed upon any other state".

(2) In Section 2 of the bill, proposed Subsection (a), Section 502.009, Transportation Code, at the end of the last sentence of the subsection, between "plan" and the period (house committee report, page 2, line 23), insert "or that

such enforcement is not required for the state implementation plan of any other state, and this state is willing to meet any additional requirement(s) imposed upon any other state in lieu of registration based enforcement".

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Horn offered the following amendment to **SB 1856**:

Amend **SB 1856** as follows:

In Section 2 of the bill, proposed Subsection (d), Section 502.009, Transportation Code, between "(d)" and "department" (house committee report, page 3, line 8), strike "The" and substitute "In consultation with a representative of the Texas Tax Assessor/Collector Association, the".

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Horn offered the following amendment to **SB 1856**:

Amend **SB 1856** in Section 2 of the bill, proposed Subsection (e), Section 502.009, Transportation Code, between "A" and "county" (house committee report, page 3, line 12), by inserting "county tax assessor-collector or an employee of a".

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Horn offered the following amendment to **SB 1856**:

Amend **SB 1856** as follows:

(1) In Section 15 of the bill (house committee report, page 23, line 6), between "displays" and "an" insert "Or causes or permits to be displayed".

(2) In Section 15 of the bill (house committee report, page 23, line 9), between the comma and "or" insert "issued for a vehicle failing to meet all emission inspection requirements,".

Amendment No. 7 was adopted without objection.

Amendment No. 8

Representative Culberson offered the following amendment to **SB 1856**:

Amend **SB 1856** (house committee report) as follows:

(1) In Section 9 of the bill, proposed Subdivision (1), Subsection (b), Section 548.306, Transportation Code, at the end of that subdivision (page 9, line 8), strike "or".

(2) In Section 9 of the bill, proposed Subdivision (2), Subsection (b), Section 548.306, Transportation Code, at the end of that subdivision (page 9, line 13), strike "rule." and substitute:

; or

(3) visible smoke that remains suspended in the air 10 or more seconds before fully dissipating.

(3) In Section 9 of the bill, proposed Subsection (c), Section 548.306, Transportation Code, at the end of the third sentence of the subsection (page 9, line 23), strike "inspection." and substitute:

inspection and explaining any extension or assistance that may be available to the owner for making any necessary repair.

(4) In Section 9 of the bill, immediately following proposed Subsection (c), Section 548.306, Transportation Code, (page 9, line 25), insert Subsections (d) and (e) of that section, to read as follows, and reletter the remaining subsections appropriately:

(d) The department shall provide notice under Subsection (c) to the registered owner of a vehicle in violation of Subsection (b)(3) as soon as is practicable after the department receives notice that a peace officer in this state has issued the driver of the vehicle an informative citation for the violation. The department shall adopt rules governing the procedures for a peace officer of police department to provide notice of informative citations issued for violations of Subsection (b)(3). The rules must include a requirement that, for each citation issued, the peace officer or police department inform the department of the date and location of the violation.

(e) A peace officer who has probable cause to believe an offense under Subsection(b)(3) has been committed may issue the driver of the vehicle an informative citation that indicates that an offense under Subsection (b)(3) may have been committed and that explains that the registered owner of the vehicle may receive in the mail a notice under Subsection (c).

Amendment No. 8 was adopted without objection.

Amendment No. 9

Representative Hamric offered the following amendment to **SB 1856**:

Amend **SB 1856** (House committee report) by adding the following appropriately numbered section and renumbering the sections of the bill appropriately:

SECTION _____. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Sections 382.0372-382.0375 to read as follows:

Sec. 382.0372. VEHICLES SUBJECT TO PROGRAM; EXEMPTIONS. (a) The inspection and maintenance program applies to any gasoline-powered vehicle that is:

(1) required to be registered in and is primarily operated in Dallas, Tarrant, El Paso, or Harris County; and

(2) at least two and less than 25 years old.

(b) In addition to a vehicle described by Subsection (a), the program applies to:

(1) a vehicle with Unites States governmental plates primarily operated in Dallas, Tarrant, El Paso, or Harris County;

(2) a vehicle operated on a federal facility in Dallas, Tarrant, El Paso, or Harris County; and

(3) a vehicle primarily operated in Dallas, Tarrant, El Paso, or Harris County that is exempt from motor vehicle registration requirements or eligible under Chapter 502, Transportation Code, to display an "exempt" license plate.

(c) The Department of Public Safety of the State of Texas may waive program requirements, in accordance with standards adopted by the commission, for certain vehicles and vehicle owners, including:

(1) the registered owner of a vehicle who:

(A) cannot afford to comply with the program, based on reasonable income standards; or

(B) has spent a reasonable amount of money, set by the commission, to repair the vehicle, without bringing the vehicle into compliance with emissions standards; and

(2) a vehicle that cannot be brought into compliance with emissions standards by performing repairs.

(d) The program does not apply to a:

(1) motorcycle;

(2) slow-moving vehicle as defined by Section 547.001, Transportation Code; or

(3) circus vehicle.

Sec. 382.0373. REMOTE SENSING PROGRAM COMPONENT. (a) The commission and the Department of Public Safety of the State of Texas jointly shall develop a program component for enforcing emissions standards by use of remote or automatic emissions detection and analysis equipment.

(b) The program component may be employed in any county designated as a nonattainment area within the meaning of Section 107(d) of the Clean Air Act (42 U.S.C. Section 7407).

Sec. 382.0374. INSPECTION EQUIPMENT AND PROCEDURES. (a) The commission by rule may adopt:

(1) standards and specifications for motor vehicle emissions testing equipment;

(2) recordkeeping and reporting procedures; and

(3) measurable emissions standards a vehicle must meet to pass the inspection.

(b) The Department of Public Safety of the State of Texas by rule shall adopt:

(1) testing procedures in accordance with motor vehicle emissions testing equipment specifications; and

(2) procedures for issuing or denying an emissions inspection certificate.

Sec. 382.0375. COLLECTION OF DATA; REPORT. (a) The commission and the Department of Public Safety of the State of Texas may collect inspection and maintenance information derived from the emissions inspection and maintenance program, including:

(1) inspection results;

(2) inspection station information;

(3) information regarding vehicles operated on federal facilities;

(4) vehicle registration information; and

(5) other data the United States Environmental Protection Agency requires.

(b) The commission shall:

(1) report the information to the United States Environmental Protection Agency; and

(2) compare the information on inspection results with registration information for enforcement purposes.

Amendment No. 9 was adopted without objection.

SB 1856, as amended, was passed to third reading. (Horn, King, Kubiak, R. Lewis, Puente, E. Reyna, Shields, Solomons, Staples, and Talton recorded voting no; Chavez present, not voting)

SB 701 ON SECOND READING
(Telford - House Sponsor)

SB 701, A bill to be entitled An Act relating to certain responsibilities of the comptroller relating to investment and management of funds.

Amendment No. 1 (Committee Amendment No. 1)

Representative Telford offered the following committee amendment to **SB 701**:

Amend **SB 701** as follows:

(1) In SECTION 2 of the bill, in Section 66.07, Education Code (page 2, lines 5-6) between "other entities" and "to serve" strike: ", in or outside this state."

(2) In SECTION 3 of the bill, in Section 85.70, Education Code (page 2, line 24) between "other entities" and "to serve" strike: ", in or outside this state."

Amendment No. 1 was adopted without objection.

SB 701, as amended, was passed to third reading.

CSSB 841 ON SECOND READING
(Hilbert - House Sponsor)

CSSB 841, A bill to be entitled An Act relating to ad valorem taxation.

Representative Hilbert moved to postpone consideration of **CSSB 841** until 10 a.m. Saturday, May 24.

The motion prevailed without objection.

CSSB 220 ON SECOND READING
(Junell - House Sponsor)

CSSB 220, A bill to be entitled An Act relating to lawsuits arising outside or brought by persons who reside outside of Texas.

Representative Dutton raised a point of order against further consideration of **CSSB 220** under Rule 4, Section 32(c)(4) of the House Rules on the grounds that the rulemaking authority statement in the bill analysis fails to include the word "department" in the language that indicates that rulemaking authority is not granted.

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

Representative Dutton raises a point of order against further consideration of **CSSB 220** under Rule 4, Section 32(c)(4), in that the bill does not comply with the strict requirements of the rule.

The rule requires that the committee report form include, "a statement indicating whether or not any rulemaking authority is expressly delegated to a state officer, department, agency, or institution, and if so, identifying the sections of the measure in which that rulemaking authority is delegated." The committee report indicates that the bill does not grant any additional rulemaking authority to a, "state officer, institution, or agency," omitting from the required list whether or not rulemaking has been granted to a state department.

Because the granting of rulemaking to an executive entity is a legislative delegation of legislative power, this rule is designed to assist the members of the house in making as informed a decision as possible in regard to this issue on each bill. The listing of the different types of entities—officers, departments, agencies, institutions—is a redundant list designed to describe in broad terms every possible delegation. It is not designed to be an exclusive list nor an all-inclusive list. The omission of "department" from the list as it appears in this committee report form neither confused nor misled any member to believe that a rulemaking authority has been granted, and the bill in fact does not grant rulemaking authority to any entity of any type.

Accordingly, the point of order is respectfully overruled.

Amendment No. 1

Representative Junell offered the following amendment to **CSSB 220**:

Amend **CSSB 220**, Section 3, page 12, line 10, strike the comma "," and between the word "date" and "and" add the following:

as to all parties joined in that action before that date and as to other defendants properly joined after the effective date who could not have been joined in the action before the effective date because of the existence of an injunction prohibiting such joinder.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Junell offered the following amendment to **CSSB 220**:

Amend **CSSB 220**, Section 4, page 11, line 24, strike subsection (b) and insert the following:

(b) Section 2 of this Act applies to a civil action that is pending on the effective date of this Act in which the plaintiff alleges that harm was caused by exposure to asbestos fibers. In an action commenced before the effective date of this Act, a trial of a plaintiff's action that was completed before that date, or that is in progress on that date, and a subsequent new trial or retrial of that plaintiff's action is governed with respect to the subject matter of Section 2 of this Act by the applicable law in effect immediately before that date, and that law is continued in effect for that purpose.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Dutton offered the following amendment to **CSSB 220**:

Amend **CSSB 220** by adding the following appropriately numbered SECTION and renumbering the remaining SECTIONS of the bill accordingly:

SECTION ____: The provisions of this Act are not severable. If one provision of this Act is held invalid, all provisions of this Act are invalid.

Representative Junell moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 508): 87 Yeas, 22 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bosse; Carter; Chisum; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Davila; Delisi; Finnell; Gallego; Galloway; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hernandez; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Madden; Marchant; McCall; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Oliveira; Palmer; Patterson; Ramsay; Raymond; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Van de Putte; Walker; West; Williams; Williamson; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Nays — Alvarado; Bailey; Davis; Dunnam; Dutton; Ehrhardt; Flores; Garcia; Hodge; Jones, J.; Longoria; Maxey; McClendon; McReynolds; Moreno; Price; Puente; Rangel; Solis; Thompson; Wilson; Wise.

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

Absent, Excused — Bonnen; Christian; Denny; Driver; Eiland; Elkins; Gutierrez; Luna; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.

Absent, Excused, Committee Meeting — Sadler; Stiles.

Absent — Berlanga; Brimer; Burnam; Chavez; Clark; Coleman; Danburg; Dukes; Edwards; Farrar; Giddings; Hawley; Hightower; Hochberg; Olivo; Place; Telford; Torres.

STATEMENTS OF VOTE

When Record No. 508 was taken, my vote failed to register. I would have voted yes.

Brimer

When Record No. 508 was taken, I was in the house but away from my desk. I would have voted yes.

Danburg

When Record No. 508 was taken, I was in the house but away from my desk. I would have voted yes.

Hawley

When Record No. 508 was taken, I was in the house but away from my desk. I would have voted yes.

Place

Amendment No. 4

Representative Dutton offered the following amendment to **CSSB 220**:

Amend **CSSB 220** as follows:

(1) In SECTION 2 of the bill (committee printing, page 7, line 23), strike "January 1, 1997" and substitute "September 1, 1997".

(2) In SECTION 2 of the bill, strike committee printing, line 27, page 7 through line 11, page 9.

(3) In SECTION 2 of the bill, (committee printing, page 9, line 12), strike "(f)" and substitute "(c)".

(4) In SECTION 2 of the bill, (committee printing page 9, line 25), strike "(g)" and substitute "(d)".

(5) In SECTION 2 of the bill, (committee printing page 10, line 3), strike "(h)" and substitute "(e)".

(6) In SECTION 4 of the bill, strike committee printing page 11, line 24 through page 12, line 11, and substitute the following:

(b) Sections 2 and 3 of this Act apply to a civil action commenced on or after the effective date of this Act. A civil action commenced before the effective date of this Act is governed by the applicable law in effect immediately before that date, and that law is continued in effect for that purpose.

Representative Junell moved to table Amendment No. 4.

A record vote was requested.

The motion to table prevailed by (Record 509): 77 Yeas, 35 Nays, 4 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bosse; Brimer; Carter; Chisum; Cook; Corte; Counts; Crabb; Craddick; Culberson; Delisi; Finnell; Galloway; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hochberg; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Junell; Kamel; Keel; Keffer; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Madden; Marchant; McCall; McReynolds; Merritt; Moffat; Mowery; Nixon; Oakley; Palmer; Patterson; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Walker; West; Williams; Williamson; Wohlgemuth; Woolley; Zbranek.

Nays — Berlanga; Burnam; Chavez; Cuellar; Davila; Dukes; Dunnam; Dutton; Ehrhardt; Farrar; Flores; Gallego; Garcia; Hernandez; Hirschi; Hodge; Jones, J.; King; Longoria; Maxey; McClendon; Moreno; Naishtat; Olivo; Price; Puente; Rangel; Raymond; Solis; Thompson; Torres; Van de Putte; Wilson; Wise; Yarbrough.

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

Absent, Excused — Bonnen; Christian; Denny; Driver; Eiland; Elkins; Gutierrez; Luna; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.

Absent, Excused, Committee Meeting — Sadler; Stiles.

Absent — Alvarado; Bailey; Clark; Coleman; Danburg; Davis; Edwards; Giddings; Hinojosa; Jones, D.; Oliveira; Place; Ramsay; Telford.

STATEMENTS OF VOTE

When Record No. 509 was taken, I was in the house but away from my desk. I would have voted yes.

Danburg

When Record No. 509 was taken, I was in the house but away from my desk. I would have voted yes.

Place

LEAVE OF ABSENCE GRANTED

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

Oliveira on motion of Van de Putte.

CSSB 220 - (consideration continued)

Amendment No. 5

Representative Dutton offered the following amendment to **CSSB 220**:

Amend **CSSB 220** as follows:

(1) In SECTION 2 of the bill (committee printing, page 7, line 23), strike "January 1, 1997" and substitute "September 2, 1997".

(2) In SECTION 2 of the bill, strike committee printing, line 27, page 7 through line 11, page 9.

(3) In SECTION 2 of the bill (committee printing, page 9, line 12), strike "(f)" and substitute "(c)".

(4) In SECTION 2 of the bill (committee printing, page 9, line 25), strike "(g)" and substitute "(d)".

(5) In SECTION 2 of the bill (committee printing, page 10, line 3), strike "(h)" and substitute "(e)".

(6) In SECTION 4 of the bill, strike committee printing, page 11, line 24 through page 12, line 11, and substitute the following:

(b) Sections 2 and 3 of this Act apply to a civil action commenced on or after the effective date of this Act. A civil action commenced before the effective date of this Act is governed by the applicable law in effect immediately before that date, and that law is continued in effect for that purpose.

LEAVE OF ABSENCE GRANTED

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

Bailey on motion of Dunnam.

CSSB 220 - (consideration continued)

Representative Junell moved to table Amendment No. 5.

(Denny and Stiles now present)

(Speaker in the chair)

A record vote was requested.

The motion to table prevailed by (Record 510): 88 Yeas, 32 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bosse; Brimer; Carter; Chisum; Coleman; Cook; Corte; Counts; Crabb; Craddick; Culberson; Davila; Delisi; Denny; Finnell; Gallego; Galloway; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Junell; Kamel; Keel; Keffer; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; McReynolds; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Palmer; Patterson; Place; Ramsay; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Uher; Van de Putte; Walker; West; Williams; Williamson; Wohlgemuth; Woolley; Zbranek.

Nays — Alvarado; Berlanga; Burnam; Chavez; Cuellar; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Flores; Garcia; Hinojosa; Hirschi; Hodge; Jones, J.; King; Lewis, G.; Longoria; Maxey; McClendon; Olivo; Puente; Rangel; Raymond; Solis; Thompson; Torres; Wilson; Wise; Yarbrough.

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

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.

Absent, Excused, Committee Meeting — Sadler.

Absent — Clark; Danburg; Davis; Giddings; Hochberg; Moreno; Price; Telford.

STATEMENT OF VOTE

I was shown voting yes on Record No. 510. I intended to vote no.

Hernandez

Amendment No. 6

Representative Dutton offered the following amendment to **CSSB 220**:

Amend **CSSB 220** as follows:

(1) In SECTION 2 of the bill (committee printing, page 7, line 23), strike "January 1, 1997" and substitute "September 3, 1997".

(2) In SECTION 2 of the bill, strike committee printing, line 27, page 7 through line 11, page 9.

(3) In SECTION 2 of the bill (committee printing, page 9, line 12), strike "(f)" and substitute "(c)".

(4) In SECTION 2 of the bill (committee printing, page 9, line 25), strike "(g)" and substitute "(d)".

(5) In SECTION 2 of the bill (committee printing, page 10, line 3), strike "(h)" and substitute "(e)".

(6) In SECTION 4 of the bill, strike committee printing, page 11, line 24 through page 12, line 11, and substitute the following:

(b) Sections 2 and 3 of this Act apply to a civil action commenced on or after the effective date of this Act. A civil action commenced before the effective date of this Act is governed by the applicable law in effect immediately before that date, and that law is continued in effect for that purpose.

Representative Junell moved to table Amendment No. 6.

The motion to table prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hochberg requested permission for the Select Committee on Revenue and Public Education Funding to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Select Committee on Revenue and Public Education Funding, 10 p.m. today, speakers committee room.

CSSB 220 - (consideration continued)

Amendment No. 7

Representative Raymond offered the following amendment to **CSSB 220**:

Amend **CSSB 220** as follows:

(1) In SECTION 2 of the bill (committee printing, page 7, line 23), strike "January 1, 1997" and substitute "June 3, 1997".

(2) In SECTION 2 of the bill, strike committee printing, line 27, page 7 through line 11, page 9.

(3) In SECTION 2 of the bill (committee printing, page 9, line 12), strike "(f)" and substitute "(c)".

(4) In SECTION 2 of the bill (committee printing, page 9, line 25), strike "(g)" and substitute "(d)".

(5) In SECTION 2 of the bill (committee printing, page 10, line 3), strike "(h)" and substitute "(e)".

(6) In SECTION 4 of the bill, strike committee printing, page 11, line 24 through page 12, line 11, and substitute the following:

(b) Sections 2 and 3 of this Act apply to a civil action commenced on or after the effective date of this Act. A civil action commenced before the effective date of this Act is governed by the applicable law in effect immediately before that date, and that law is continued in effect for that purpose.

Representative Junell moved to table Amendment No. 7.

A record vote was requested.

The motion to table prevailed by (Record 511): 83 Yeas, 36 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bosse; Brimer; Carter; Chisum; Cook; Corte; Counts; Crabb; Craddick; Culberson; Delisi; Denny; Finnell; Galloway; Glaze; Goodman; Goolsby; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; McReynolds; Merritt; Moffat; Mowery; Nixon; Oakley; Palmer; Patterson; Place; Ramsay; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Telford; Uher; Walker; West; Williams; Williamson; Wohlgemuth; Woolley; Zbranek.

Nays — Alvarado; Berlanga; Burnam; Chavez; Cuellar; Davila; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Flores; Gallego; Garcia; Gray; Hernandez; Hirschi; Hodge; Jones, J.; Lewis, G.; Longoria; Maxey; McClendon; Naishtat; Olivo; Puente; Rangel; Raymond; Solis; Thompson; Torres; Van de Putte; Wilson; Wise; Yarbrough.

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

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.

Absent, Excused, Committee Meeting — Sadler.

Absent — Clark; Coleman; Danburg; Davis; Giddings; Hinojosa; Hochberg; Moreno; Price.

STATEMENT OF VOTE

When Record No. 511 was taken, I was in the house but away from my desk. I would have voted no.

Danburg

Representative Gallego moved the previous question on passage to third reading of **CSSB 220**.

The motion was seconded.

A record vote was requested.

The motion for the previous question on passage to third reading of **CSSB 220** prevailed by (Record 512): 99 Yeas, 22 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berlanga; Bosse; Brimer; Carter; Chisum; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Davila; Delisi; Denny; Finnell; Gallego; Galloway; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; McClendon; McReynolds; Merritt; Moffat; Mowery; Naishtat; Nixon;

Oakley; Palmer; Patterson; Place; Ramsay; Raymond; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Torres; Uher; Van de Putte; Walker; West; Williams; Williamson; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Nays — Alvarado; Burnam; Chavez; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Flores; Garcia; Hodge; Jones, J.; Lewis, G.; Longoria; Maxey; Olivo; Puente; Rangel; Solis; Wilson; Wise.

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

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.

Absent, Excused, Committee Meeting — Sadler.

Absent — Clark; Danburg; Davis; Giddings; Hightower; Moreno; Price.

STATEMENT OF VOTE

When Record No. 512 was taken, I was in the house but away from my desk. I would have voted yes.

Danburg

A record vote was requested.

CSSB 220, as amended, was passed to third reading by (Record 513): 109 Yeas, 12 Nays, 4 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berlanga; Bosse; Brimer; Carter; Chisum; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Delisi; Denny; Dukes; Dunnam; Farrar; Finnell; Flores; Gallego; Galloway; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Madden; Marchant; McCall; McClendon; McReynolds; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Palmer; Patterson; Place; Price; Puente; Ramsay; Raymond; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Torres; Uher; Van de Putte; Walker; West; Williams; Williamson; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Nays — Alvarado; Burnam; Chavez; Dutton; Edwards; Ehrhardt; Longoria; Maxey; Olivo; Rangel; Wilson; Wise.

Present, not voting — Mr. Speaker(C); Garcia; Hightower; Wolens.

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.

Absent, Excused, Committee Meeting — Sadler.

Absent — Clark; Davis; Giddings; Hochberg; Moreno.

STATEMENT OF VOTE

I was shown voting no on Record No. 513. I intended to vote yes.

Chavez

**ADDRESS BY REPRESENTATIVE DUTTON
ON A MATTER OF PERSONAL PRIVILEGE**

The speaker recognized Representative Dutton who addressed the house on a matter of personal privilege.

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

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

**SJR 17 ON SECOND READING
(R. Lewis - House Sponsor)**

SJR 17, A joint resolution proposing a constitutional amendment relating to creation of the Texas Water Development Fund II; to authorizing the Texas Water Development Board to administer the fund and issue general obligation bonds for the purposes of the fund; and to the flow of funds for repayment of Texas agricultural water conservation bonds.

Amendment No. 1

Representative Keel offered the following amendment to **SJR 17**:

Amend **SJR 17** in SECTION 1 of the resolution, after proposed Subsection (g), Section 49-d-8, Article III, Texas Constitution (House committee report, page 6, between lines 14 and 15) by adding a new Subsection (h) to read as follows:

(h) The Texas Water Development Fund II, including any account in that fund, may not be used to finance or aid any project that contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing 50-year period within the river basin of origin, except on a temporary, interim basis.

Amendment No. 1 was adopted without objection.

LEAVE OF ABSENCE GRANTED

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

Wolens on motion of Cuellar.

SJR 17 - (consideration continued)

A record vote was requested.

SJR 17, as amended, was adopted by (Record 514): 122 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berlanga; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Delisi; Denny; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Torres; Uher; Van de Putte; Walker; West; Williamson; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.; Wolens.

Absent, Excused, Committee Meeting — Sadler.

Absent — Clark; Davis; Giddings; Hochberg; Stiles; Williams.

SJR 45 ON SECOND READING
(R. Lewis - House Sponsor)

SJR 45, A joint resolution proposing a constitutional amendment to authorize the legislature to permit a taxing unit to grant an exemption or other relief from ad valorem taxes on property on which a water conservation initiative has been implemented.

A record vote was requested.

SJR 45 was adopted by (Record 515): 120 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berlanga; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Delisi; Denny; Dukes; Dunnam; Dutton; Edwards; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Torres; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.; Wolens.

Absent, Excused, Committee Meeting — Sadler.

Absent — Clark; Davis; Ehrhardt; Giddings; Hirschi; Hochberg; Stiles.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Thompson requested permission for the Committee on Judicial Affairs to meet at this time.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Judicial Affairs, at this time, speakers committee room.

GENERAL STATE CALENDAR SENATE BILLS THIRD READING

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

SB 1 ON THIRD READING (R. Lewis - House Sponsor)

SB 1, A bill to be entitled An Act relating to the development and management of the water resources of the state; providing penalties.

Amendment No. 1

Representative Hilbert offered the following amendment to **SB 1**:

Amend **SB 1** on 3rd reading by adding the following appropriately numbered SECTIONS and renumbering the remaining sections of the bill accordingly:

SECTION _____. Subchapter C, Chapter 16, Water Code, is amended by adding Section 16.059 to read as follows:

Sec. 16.059. CHANGES IN ORDERLY DEVELOPMENT, MANAGEMENT, OR CONSERVATION OF CERTAIN WATER RESOURCES. (a) The purpose of this section is to allow a water district to provide for the orderly development, management, and conservation of water resources, to ensure that sufficient water will be available at a reasonable cost to ensure public health, safety, and welfare, and to protect the agricultural and natural resources of this state.

(b) A district may adopt a comprehensive water plan for the provision of water in the district. The plan may outline the district management plan, including any plans for the orderly development, management, and conservation of water resources. The district may submit the plan to a regional water planning group under Section 16.053 or the board under Section 16.051.

(c) If a political subdivision seeks to take an action that has an impact on

a district's comprehensive water plan, the political subdivision shall, not later than the 100th day before the date of the action that has an impact on the district's comprehensive water plan, give the governing body of the district written notice of the political subdivision's intention.

(d) The governing body of a district, on receipt of a notice under Subsection (c), shall conduct an election on the issue of whether the action that has an impact on the district's comprehensive water plan may be imposed in the district. The election must be conducted, in accordance with Chapter 41, Election Code, not later than the 10th day before the date of the institution of the proceeding described by the notice.

(e) The ballot proposition for an election under this section must be printed to permit voting for or against the imposition of the action by the political subdivision in the specified part of the district. All voters in the district may vote on the proposition.

(f) If a majority of voters voting at the election approve the proposition, the action described by the notice given under Subsection (c) may be instituted at any time before the second anniversary after the date of the election. If a majority of voters voting at the election disapprove the proposition, the political subdivision may not institute the action in the district and may not propose an action that has an impact on the district's comprehensive water plan until the second anniversary after the date of the election.

(g) In this section:

(1) The term "political subdivision" does not include a county, county development district, junior college district, school district, hospital district, nonprofit water supply corporation, municipal management district, emergency services district, rural fire prevention district, or district or authority that exercises the powers granted by Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(2) "An action that has an impact on the district's comprehensive water plan" means the institution of a proceeding having the purpose or the effect of imposing a tax or fee, including a fee charged for the provision of water, on a person, property, or transaction in any part of a district and the imposition of the tax or fee by the political subdivision would replace the tax or fee imposed by the water district and eliminate the district's autonomous ability to finance and implement the district's comprehensive water plan.

(3) "District" means a district established or operated under Title 4.

(h) This section applies only to a political subdivision that is, or is located in any part in, a municipality with a population of 1.6 million or more or that is located in any part in the extraterritorial jurisdiction of the municipality.

SECTION _____. (a) Section 16.059, Water Code, as added by this Act, applies to an action that has an impact on a district's comprehensive water plan that is imposed by a political subdivision on or after the effective date of this Act. An action that has an impact on a district's comprehensive water plan that is imposed by a political subdivision before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Section 16.059, Water Code, as added by this Act, applies only to a new action that has an impact on a district's comprehensive water plan but does not apply to:

(1) a tax or fee imposed in a district affected by Section 16.059, Water Code, as added by this Act, by a political subdivision that levied taxes on the property in the district before the effective date of that section;

(2) a tax or fee imposed in a district by a political subdivision that was, at an election held within the district affected by Section 16.059, Water Code, as added by this Act, authorized to levy taxes on property in the district;

(3) any change in the amount of an existing tax or fee imposed by a political subdivision in a district affected by Section 16.059, Water Code, as added by this Act, including utility rates imposed by a political subdivision;

(4) a fee, including utility rates, imposed in a district affected by Section 16.059, Water Code, as added by this Act, by a political subdivision under a contract between the political subdivision and the district; or

(5) a fee authorized to be charged by a statute or by an enabling act of a political subdivision.

(c) A tax or fee imposed by a political subdivision before the effective date of this Act and after May 1, 1997 may not be collected after the effective date of this Act unless the political subdivision complies with the provisions of Section 16.059, Water Code, as amended by this Act.

A record vote was requested.

Amendment No. 1 failed of adoption (not receiving the necessary two-thirds vote) by (Record 516): 72 Yeas, 36 Nays, 18 Present, not voting.

Yeas — Allen; Averitt; Brimer; Carter; Chisum; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Delisi; Denny; Ehrhardt; Finnell; Gallego; Galloway; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Holzheuser; Horn; Hunter; Hupp; Jackson; Janek; Jones, D.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; Merritt; Moffat; Mowery; Nixon; Oakley; Palmer; Patterson; Reyna, E.; Rhodes; Shields; Siebert; Smith; Smithee; Staples; Swinford; Talton; Thompson; Uher; Van de Putte; Walker; West; Williams; Williamson; Wohlgemuth; Zbranek.

Nays — Alvarado; Bosse; Burnam; Chavez; Coleman; Danburg; Davila; Davis; Dukes; Farrar; Flores; Garcia; Gray; Greenberg; Hernandez; Hirschi; Hochberg; Hodge; Jones, J.; Longoria; Maxey; McClendon; Moreno; Naishtat; Olivo; Puente; Rangel; Raymond; Roman; Solis; Solomons; Torres; Wilson; Wise; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C); Alexander; Berlanga; Clark; Dunnam; Dutton; Edwards; Hartnett; Hightower; Isett; Junell; Lewis, G.; McReynolds; Place; Price; Ramsay; Stiles; Telford.

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.; Wolens.

Absent, Excused, Committee Meeting — Sadler.

Absent — Giddings; Glaze; Howard.

Amendment No. 2

Representative Counts offered the following amendment to **SB 1**:

Amend **SB 1** on third reading by adding a new SECTION to the bill, appropriately numbered, to read as follows:

SECTION _____. Subchapter D, Chapter 51, Water Code, is amended by adding Section 51.196 to read as follows:

Sec. 51.196. DEVELOPMENT OF UNDERGROUND WATER BY CERTAIN DISTRICTS. A conservation and reclamation district created by special law under the authority of Section 59, Article XVI, Texas Constitution, and designated as a municipal water district to which the administrative and taxing provisions applicable to districts governed by this chapter apply, may develop or otherwise acquire underground sources of water, notwithstanding a provision in that district's special law otherwise prohibiting the development of acquisition of underground water.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Hilderbran offered the following amendment to **SB 1**:

Amend **SB 1** on third reading, in proposed Section 36.122, Water Code, by adding a new Subsection (i) to read as follows:

(i) A district shall adopt rules as necessary to implement this section.

Amendment No. 3 was adopted without objection.

SB 1, as amended, was passed. (Kubiak recorded voting no)

SB 30 ON THIRD READING
(Maxey - House Sponsor)

SB 30, A bill to be entitled An Act relating to fraud and improper payments under the state Medicaid program and other welfare programs; to the creation of private cause of action for false claims for certain government payments; and to the creation of a criminal offense; providing penalties.

A record vote was requested.

SB 30 was passed by (Record 517): 121 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berlanga; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Delisi; Denny; Dukes; Dunnam; Dutton; Ehrhardt; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Maxey; McCall; McClendon; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles;

Swinford; Talton; Telford; Thompson; Torres; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.; Wolens.

Absent, Excused, Committee Meeting — Sadler.

Absent — Davis; Edwards; Giddings; Glaze; McReynolds; Moreno; Wilson.

SB 674 ON THIRD READING
(Place - House Sponsor)

SB 674, A bill to be entitled An Act relating to the prosecution of the offense of possession or promotion of child pornography.

Amendment No. 1

Representative Wise offered the following amendment to **SB 674**:

Amend **SB 674** on 3rd Reading by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION _____. Section 43.26, Penal Code, is amended by adding Subsection (h) to read as follows:

(h) A business that develops or processes visual material and determines that the material may be evidence of a criminal offense under this section shall report the existence of the visual material to a local law enforcement agency.

Amendment No. 1 was withdrawn.

SB 674 was passed.

SB 1529 ON THIRD READING
(Janek - House Sponsor)

SB 1529, A bill to be entitled An Act relating to the provision of housing and utility services for certain dwellings.

SB 1529 was passed.

SB 20 ON THIRD READING
(Thompson, Puente, Junell, Cuellar, Howard, et al. - House Sponsors)

SB 20, A bill to be entitled An Act relating to the creation of certain district courts.

Amendment No. 1

Representative Thompson offered the following amendment to **SB 20**:

Amend **SB 20** on 3rd reading by striking Amendment No. 4 by Glaze and Amendments Nos. 7 and 8 by Puente, as adopted on 2nd reading, and substituting the following:

Amend **SB 20** as follows:

(1) In SECTION 1 of the bill (page 1, lines 5-6, house committee printing), strike "24.524, 24.538, and".

(2) In SECTION 1 of the bill (page 1, lines 7-14, house committee printing), strike lines 7-14.

(3) In SECTION 2 of the bill (page 1, line 24, house committee printing), between "Sections" and "24.542", insert "24.524, 24.538, and".

(4) In SECTION 2 of the bill (page 2, line 1, house committee printing), strike "24.549" and substitute "24.552".

(5) In SECTION 2 of the bill (page 2, between lines 1-2, house committee printing), insert the following:

Sec. 24.524. 379TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 379th Judicial District is composed of Bexar County.

(b) The 379th Judicial District shall give preference to criminal cases.

Sec. 24.538. 393RD JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 393rd Judicial District is composed of Bexar County.

(b) The 393rd Judicial District shall give preference to juvenile matters.

(6) At the end of SECTION 2 of the bill (page 3, between lines 2-3, house committee printing), add the following:

Sec. 24.550. 405TH JUDICIAL DISTRICT (SMITH COUNTY). The 405th Judicial District is composed of Smith County.

Sec. 24.551. 406TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 406th Judicial District is composed of Bexar County.

(b) The 406th Judicial District shall give preference to civil cases.

Sec. 24.552. 407TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 407th Judicial District is composed of Bexar County.

(b) The 407th Judicial District shall give preference to criminal cases.

(7) In SECTION 5 of the bill (page 3, line 18, house committee printing), strike "397th through 404th" and substitute "379th, 393rd, 397th through 404th, and 406th and 407th".

Amendment No. 1 was adopted without objection.

Amendment No. 2

On behalf of Representative Gallego, Representative Thompson offered the following amendment to **SB 20**:

Amend **SB 20** by adding the following appropriately numbered sections and renumbering the existing sections appropriately:

SECTION _____. Section 24.384, Government Code, is amended to read as follows:

Sec. 24.384. 205TH JUDICIAL DISTRICT (~~[CULBERSON,] EL PASO COUNTY[, AND HUDSPETH COUNTIES]~~). (a) The 205th Judicial District is composed of ~~[Culberson,] El Paso County [, and Hudspeth counties]~~.

(b) ~~[The 205th District Court shall give preference to criminal cases.~~

~~[(c)]~~ Section 24.136, relating to the 34th District Court, contains provisions applicable to both that court and the 205th District Court.

(c) The 205th District Court has jurisdiction of the community supervision and corrections department that serves Hudspeth and Culberson counties.

SECTION _____. (a) The local administrative district judge shall transfer all cases from Culberson and Hudspeth counties that are pending in the 205th District Court on the effective date of this Act to the 394th District Court.

(b) The local administrative district judge shall transfer all cases from Reagan and Upton counties that are pending in the 83rd District Court on the effective date of this Act to the 112th District Court.

(c) When a case is transferred from one court to another as provided by Subsection (a) or (b) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a court from which a case is transferred, are required to appear before the court to which a case is transferred as if originally required to appear before the court to which the transfer is made.

Amendment No. 2 was adopted without objection.

SB 20, as amended, was passed.

SB 205 ON THIRD READING
(Alexander - House Sponsor)

SB 205, A bill to be entitled An Act relating to the administration of county roads.

A record vote was requested.

SB 205 was passed by (Record 518): 123 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berlanga; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Dukes; Dunnam; Dutton; Ehrhardt; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Olivo; Patterson; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Torres; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.; Wolens.

Absent, Excused, Committee Meeting — Sadler.

Absent — Edwards; Giddings; Glaze; Moreno.

STATEMENT OF VOTE

I was shown voting present, not voting on Record No. 518. I intended to vote yes.

Palmer

**SB 329 ON THIRD READING
(McReynolds and Torres - House Sponsors)**

SB 329, A bill to be entitled An Act relating to the offense of making a false report to a peace officer or to an employee of a law enforcement agency.

SB 329 was passed.

**SB 1877 ON THIRD READING
(Greenberg, Coleman, Giddings, Siebert, Delisi, et al. - House Sponsors)**

SB 1877, A bill to be entitled An Act relating to creating a Texas community investment program to assist certain businesses in distressed areas of the state.

SB 1877 was passed.

**SB 310 ON THIRD READING
(Goodman, Thompson, and Cuellar - House Sponsors)**

SB 310, A bill to be entitled An Act relating to certain judicial salaries.

Amendment No. 1

Representative Goodman offered the following amendment to **SB 310**:

Amend **SB 310** on third reading by striking Floor Amendment No. 1 by Gallego and substituting the following:

Amend **SB 310** on page 1, line 18, by striking "\$500" and substituting "\$2,500 [~~\$500~~].

Amendment No. 1 was adopted without objection.

SB 310, as amended, was passed. (Berlanga, Burnam, Chavez, Christian, Finnell, Flores, Heflin, Hilderbran, Hochberg, Hodge, Holzheuser, Howard, Isett, Kamel, Keffer, Kubiak, Kuempel, G. Lewis, Marchant, McReynolds, Patterson, Rangel, Raymond, Shields, Torres, West, Wohlgemuth, Woolley, and Yarbrough recorded voting no; Dunnam, King, Solis, and Talton, present, not voting)

**SB 227 ON THIRD READING
(D. Jones - House Sponsor)**

SB 227, A bill to be entitled An Act relating to a grant for a local area adversely affected by a reduction in defense-related activity.

A record vote was requested.

SB 227 was passed by (Record 519): 119 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berlanga; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Clark; Coleman; Cook; Corte; Counts; Crabb;

Craddick; Cuellar; Culberson; Danburg; Davila; Delisi; Denny; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Finnell; Flores; Gallego; Galloway; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Place; Price; Puente; Ramsay; Rangel; Raymond; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Torres; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.; Wolens.

Absent, Excused, Committee Meeting — Sadler.

Absent — Davis; Dukes; Garcia; Giddings; Horn; Krusee; Reyna, E.; Stiles; Uher.

STATEMENT OF VOTE

I was shown voting yes on Record No. 519. I intended to vote no.

Hartnett

SB 472 ON THIRD READING (Marchant - House Sponsor)

SB 472, A bill to be entitled An Act relating to powers of certain regional transportation authorities.

A record vote was requested.

SB 472 was passed by (Record 520): 119 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berlanga; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Delisi; Denny; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Finnell; Flores; Gallego; Galloway; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Place; Price; Puente; Ramsay; Rangel; Raymond; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Torres; Uher; Van de Putte;

Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.; Wolens.

Absent, Excused, Committee Meeting — Sadler.

Absent — Clark; Davis; Dukes; Garcia; Giddings; Hochberg; King; Reyna, E.; Stiles.

STATEMENT OF VOTE

When Record No. 520 was taken, I was in the house but away from my desk. I would have voted yes.

King

SB 1106 ON THIRD READING (Averitt - House Sponsor)

SB 1106, A bill to be entitled An Act relating to actions for the amount of deductible under personal automobile insurance policies.

SB 1106 was passed.

SB 489 ON THIRD READING (Corte - House Sponsor)

SB 489, A bill to be entitled An Act relating to the regulation of explosives by a county fire marshal in certain counties.

SB 489 was passed.

SB 455 ON THIRD READING (McCall - House Sponsor)

SB 455, A bill to be entitled An Act relating to liability insurance coverage for a charitable organization.

A record vote was requested.

SB 455 was passed by (Record 521): 122 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berlanga; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat;

Nixon; Oakley; Olivo; Palmer; Patterson; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Torres; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.; Wolens.

Absent, Excused, Committee Meeting — Sadler.

Absent — Clark; Dukes; Giddings; Hawley; Smith; Stiles.

SB 187 ON THIRD READING
(Stiles - House Sponsor)

SB 187, A bill to be entitled An Act relating to the allocation of money in the law enforcement officer standards and education account to local law enforcement agencies.

A record vote was requested.

SB 187 was passed by (Record 522): 123 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berlanga; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Finnell; Gallego; Galloway; Garcia; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, E.; Rhodes; Roman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Torres; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Bonnen; Christian; Driver; Eiland; Elkins; Gutierrez; Luna; Oliveira; Pickett; Pitts; Rabuck; Reyna, A.; Seaman; Serna; Tillery; Turner, B.; Turner, S.; Wolens.

Absent, Excused, Committee Meeting — Sadler.

Absent — Clark; Dukes; Flores; Giddings; Stiles.

SB 877 ON THIRD READING
(Berlanga - House Sponsor)

SB 877, A bill to be entitled An Act relating to the regulation of the practice of dentistry.

SB 877 was passed.

**GENERAL STATE CALENDAR
SENATE BILLS
SECOND READING**

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

**CSSB 1699 ON SECOND READING
(Berlanga - House Sponsor)**

CSSB 1699, A bill to be entitled An Act relating to the Texas State Board of Medical Examiners and the licensure of physicians; providing penalties.

Representative Berlanga moved to table **CSSB 1699**.

The motion to table prevailed.

SB 1203 - RECOMMITTED

Representative Chisum moved to recommit **SB 1203** to the Committee on County Affairs.

The motion prevailed without objection.

ADJOURNMENT

Representative McClendon moved that the house adjourn until 10 a.m. Saturday, May 24.

The motion prevailed without objection.

The house accordingly, at 11:03 p.m., adjourned until 10 a.m. Saturday, May 24.

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 290 (by West), Congratulating the Reverend Curtis Thorpe on the occasion of his 50th anniversary as pastor of Odessa's Temple Baptist Church.
To Rules & Resolutions.

HCR 291 (by Cuellar), Encouraging state agencies to evaluate the use of multimedia kiosks for service delivery.
To State Affairs.

HR 1054 (by Price and McClendon), In memory of Willie C. Sennette, Jr.
To Rules & Resolutions.

HR 1059 (by Pitts), Congratulating the Waxahachie High School Jazz Ensemble on being invited to perform at the Montreux Jazz Festival.
To Rules & Resolutions.

HR 1061 (by Uher), In memory of Gustave A. "Goose" Franzen.
To Rules & Resolutions.

HR 1069 (by Junell), Congratulating Byron E. "Sonny" Cleere on the occasion of his 65th birthday.
To Rules & Resolutions.

SB 1019 to Revenue & Public Education Funding, Select.

SB 1136 to Land & Resource Management.

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 23, 1997 - 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 115 Tillery SPONSOR: Shapiro
Relating to the failure of certain persons to attend a court hearing involving a child; providing a criminal penalty.

HB 331 Danburg SPONSOR: Madla
Relating to certain election processes and procedures.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 399 Goodman SPONSOR: Ratliff
Relating to the availability of governmental information about motor vehicle accidents.
(AMENDED)

HB 670 Shields SPONSOR: Nelson
Relating to the appraisal of property for ad valorem tax purposes.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 724 Serna SPONSOR: Barrientos
Relating to transfers of contributions to the optional retirement program for faculty members of institutions of higher education.
(AMENDED)

HB 793 Merritt SPONSOR: Harris
Relating to notice that entry on property is forbidden for the purpose of prosecuting the offense of trespass.
(AMENDED)

HB 803 Kuempel SPONSOR: Armbrister
Relating to investment of the volunteer firefighters' relief and retirement fund.

HB 844 McReynolds SPONSOR: Nixon
Relating to the creation of the office of district attorney for Judicial District 1-A and to the abolition of the jurisdiction of the district attorney for the 1st Judicial District in Newton County.
(AMENDED)

HB 846 King SPONSOR: Zaffirini
Relating to the exemption from ad valorem taxation of certain public property.

HB 907 Madden SPONSOR: Shapiro
Relating to the application of the professional prosecutors law to the criminal district attorney of Collin County.
(AMENDED)

HB 951 Turner, Sylvester SPONSOR: Wentworth
Relating to the Texas open records law.
(AMENDED)

HB 1150 Greenberg SPONSOR: Shapiro
Relating to the notification of school personnel of the arrest or detention of a student and any subsequent disposition of that arrest or detention.
(AMENDED)

HB 1294 Solomons SPONSOR: Haywood
Relating to continuing education requirements for county commissioners.
(AMENDED)

HB 1467 Puente SPONSOR: Shapleigh
Relating to extending the period of community supervision for certain persons convicted of a misdemeanor.

HB 1596 Hochberg SPONSOR: Moncrief
Relating to unlicensed personal care facilities.
(AMENDED)

HB 1692 Eiland SPONSOR: Patterson
Relating to the operation of publicly owned and operated harbor and port facilities located in certain municipalities.

HB 2025 Pickett SPONSOR: Carona
Relating to the regulation of the sale and use of certain refrigerants; providing a criminal penalty.
(AMENDED)

HB 2129 Carter SPONSOR: Lucio, Jr.
Relating to the administration and financing of wireless service providers of 9-1-1 service.

HB 2385 Delisi SPONSOR: Zaffirini
Relating to the creation of the Health and Human Services Policy Council.
(AMENDED)

HB 2472 Maxey SPONSOR: Moncrief
Relating to the reporting of certain injuries to the Texas Department of Health.
(AMENDED)

HB 2488 Staples SPONSOR: Shapiro
Relating to the interview of a child in chambers in a suit affecting the parent-child relationship.

HB 2493 Maxey SPONSOR: Shapleigh
Relating to accessibility by persons with mobility impairments to buildings leased by or built for the state.

HB 2615 Mowery
Relating to certain findings concerning an allegation of child abuse or neglect in a suit affecting the parent-child relationship.
(AMENDED)

HB 3019 Allen SPONSOR: Brown
Relating to permit exemptions under the Texas Clean Air Act for construction or modification of certain facilities.
(AMENDED)

HB 3157 Hilbert SPONSOR: Wentworth
Relating to excepting certain legislative documents from required disclosure under the open records law.
(AMENDED)

HB 3197 Janek SPONSOR: Moncrief
Relating to utilization review of certain health care services provided to a person who sustains a compensable injury.

HB 3572 Cook SPONSOR: Armbrister
Relating to the powers of and the application of the professional prosecutors act to the county attorney for Colorado County.

HB 3587 Hirschi SPONSOR: Haywood
Relating to the acquisition or lease of hospital facilities by certain county-municipality hospital boards.

SCR 107 Carona
Honoring McShan Florist, Inc.

SCR 108 Carona
In memory of Judge Mike Schwille.

Respectfully,

Betty King
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 23, 1997 - 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 298 Madden SPONSOR: Ellis
Relating to election dates, office hours for election purposes, and information concerning cost savings in the conduct of elections.
(AMENDED)

HB 587 Hunter SPONSOR: Shapleigh
Relating to certain community centers.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 768 Junell SPONSOR: Duncan
Relating to remedies in an action alleging discrimination against an employee based on a claim for workers' compensation benefits.
(AMENDED)

HB 853 Delisi SPONSOR: Duncan
Relating to the prosecution of an offense related to the failure to maintain financial responsibility for a motor vehicle.

HB 1043 Bailey SPONSOR: Lindsay
Relating to the issuance of bonds under the Higher Education Authority Act.

HB 1239 Jackson SPONSOR: Brown
Relating to the voluntary cleanup program.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1684 Clark SPONSOR: Duncan
Relating to circumstances in which less than the whole number of a jury may render a verdict in a criminal case.
(AMENDED)

HB 2049 Hightower SPONSOR: Madla
Relating to the authority of a county to regulate certain fireworks during a drought.
(AMENDED)

HB 2061 Van de Putte SPONSOR: Patterson
Relating to requiring certain individuals to file a statement of selective service status before receiving certain financial assistance.

HB 2069 Denny SPONSOR: Ellis
Relating to certain information provided in an application for a marriage license.

HB 2101 Siebert SPONSOR: Cain
Relating to stopping at railroad grade crossings; providing penalties.
(COMMITTEE SUBSTITUTE/AMENDED)

- HB 2128** Janek SPONSOR: Barrientos
Relating to the use of telephone caller identification services and automated dial announcing devices by telephone solicitors; providing an administrative penalty.
(AMENDED)
- HB 2271** Thompson SPONSOR: Ellis
Relating to the liability of certain persons concerning abandoned property.
(AMENDED)
- HB 2386** Delisi SPONSOR: Duncan
Relating to Medicaid reimbursement for certain medical consultations.
(AMENDED)
- HB 2617** Oakley SPONSOR: Brown
Relating to the assessment of certain court costs in criminal cases and the use of that revenue to fund the Bill Blackwood Law Enforcement Management Institute.
(AMENDED)
- HB 2845** Berlanga SPONSOR: Ellis
Relating to the authority of a justice of the peace to reopen an inquest.
- HB 2940** McCall SPONSOR: Carona
Relating to dealing in computer equipment by a secondhand dealer.
(AMENDED)
- HB 2981** Junell SPONSOR: Fraser
Relating to notice to a payee of a change in the payor of oil or gas proceeds.
(AMENDED)
- HB 3306** Heflin SPONSOR: Wentworth
Relating to penalties and interest, writs, suits, judgment amounts, right of redemption, and distribution of proceeds in ad valorem tax matters.
(COMMITTEE SUBSTITUTE)
- HB 3350** Place SPONSOR: Sibley
Relating to the criminal offenses applicable to gambling and gambling devices.
(AMENDED)
- HB 3465** Greenberg SPONSOR: Patterson
Relating to the disposition of certain state property designated for military use.
(COMMITTEE SUBSTITUTE)
- HB 3567** Raymond SPONSOR: Zaffirini
Relating to the addition of territory to, the board of directors of, and disannexation procedures for the Duval County Conservation and Reclamation District.

Respectfully,

Betty King
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 22

Agriculture & Livestock - **SB 1576, SB 1814**

Corrections - **SCR 44**

Environmental Regulation - **SB 1954**

Higher Education - **SB 576**

Insurance - **SB 1155**

Judicial Affairs - **SB 24, SB 73, SB 324, SB 607, SB 743, SB 1956**

Land & Resource Management - **SB 1791**

Licensing & Administrative Procedures - **SB 259**

Public Education - **SB 132, SB 133, SB 136, SB 137, SB 138, SB 139, SB 140, SB 294, SB 521, SB 1221, SB 1825**

State Affairs - **SB 55, SB 86, SB 642, SB 1240, SB 1412, SB 1469**

Urban Affairs - **SB 679**

ENROLLED

May 22 - **HB 65, HB 297, HB 344, HB 446, HB 492, HB 685, HB 762, HB 767, HB 776, HB 785, HB 818, HB 836, HB 883, HB 932, HB 993, HB 1016, HB 1170, HB 1327, HB 1401, HB 1439, HB 1453, HB 1504, HB 1507, HB 1585, HB 1645, HB 1779, HB 1800, HB 1853, HB 2215, HB 2255, HB 2335, HB 2382, HB 2446, HB 2525, HB 2556, HB 2600, HB 2649, HB 2703, HB 2848, HB 2861, HB 3025, HB 3170, HB 3337, HB 3515, HB 3544, HCR 144, HCR 204, HCR 226, HCR 268, HCR 283, HJR 55, HJR 96**

SENT TO THE GOVERNOR

May 22 - **HB 65, HB 297, HB 344, HB 422, HB 446, HB 492, HB 564, HB 625, HB 685, HB 762, HB 776, HB 785, HB 818, HB 836, HB 883, HB 932, HB 1016, HB 1209, HB 1401, HB 1439, HB 1453, HB 1504, HB 1800, HB 1853, HB 1865, HB 2029, HB 2255, HB 2335, HB 2382, HB 2446, HB 2525, HB 2600, HB 2618, HB 2649, HB 2861, HB 3025, HB 3031, HB 3170, HB 3250, HB 3337, HB 3367, HB 3448, HB 3492, HB 3515, HB 3544, HCR 144, HCR 204, HCR 226, HCR 268, HCR 283**

SIGNED BY THE GOVERNOR

May 22 - **HCR 248**

SENT TO THE SECRETARY OF STATE

May 22 - **HJR 55, HJR 96**

RECOMMENDATIONS FILED WITH THE SPEAKER

May 22 - **HB 3594, HB 3598, HB 3602, HCR 248**