

HOUSE JOURNAL

SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-FOURTH DAY (CONTINUED) — WEDNESDAY, MAY 28, 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 573).

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; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; 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; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Absent, Excused — Krusee; Smithee.

Absent — Oliveira; Wilson; Wolens.

The invocation was offered by W. N. Perkins, pastor, First Assembly of God Church, Kerrville, as follows:

Almighty God, our Father, we acknowledge that it is through your sovereign will that we are gathered here today. Holy scripture clearly directs us to pray for those in authority over us. At this moment, we do speak to you in prayer—for those in this chamber, who are in leadership for our state.

We confess that many of us have not prayed for these as your word directs. We ask for your forgiveness and pledge that every day we will pray earnestly and sincerely for them. I pray that thousands of fellow Texans will join me and be faithful to the command of holy scripture.

We acknowledge that the representatives of this chamber are ultimately accountable to you for how they lead this state under your guidance. Today may their dependence be first upon you. May they find strength in you, knowing that they have been called to serve and not to be served.

With the immense pressures of the office they hold, we pray that their physical, mental, and spiritual strength will be renewed every day. Keep them healthy and protect them from harm.

Father, we pray that you will give them insight on how to bring us together and heal our land. We pray for spiritual awakening in our state and nation, that will truly bring us together and heal our land as only you can.

May each one of this chamber know that they are never alone, that you, our God, are always with them. This we pray in the name of Jesus Christ, who is called the prince of peace, wonderful counselor, the mighty God, the everlasting Father. Amen.

LEAVES OF ABSENCE GRANTED

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

Krusee on motion of Galloway.

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

Smithee on motion of Chisum.

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. 71 and Senate List No. 36).

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Conference committee on **HB 4** and **HJR 4**, 11 a.m. today, appropriations committee room.

CAPITOL PHYSICIAN

The speaker recognized Representative B. Turner who presented Dr. James C. Womack of Bandera as the "Doctor for the Day."

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

HCR 219 - ADOPTED (by Gallego)

Representative Gallego moved to suspend all necessary rules to take up and consider at this time **HCR 219**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 219, In memory of United States Border Patrol Agent Jefferson Barr.

HCR 219 was read and was unanimously adopted by a rising vote.

On motion of Representative Swinford, the names of all the members of the house were added to **HCR 219** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Gallego, who introduced members of Agent Jefferson Barr's family.

HR 903 - ADOPTED (by Junell)

Representative Junell moved to suspend all necessary rules to take up and consider at this time **HR 903**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 903, Recognizing May 28, 1997, as Elmer Kelton Day.

HR 903 was read and was adopted without objection.

On motion of Representative Nixon, the names of all the members of the house were added to **HR 903** as signers thereof.

INTRODUCTION OF GUEST

The speaker recognized Representative Junell, who introduced Elmer Kelton.

SCR 104 - ADOPTED (Chisum - House Sponsor)

Representative Chisum moved to suspend all necessary rules to take up and consider at this time **SCR 104**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

SCR 104, Expressing deep appreciation to Rita Tyson.

SCR 104 was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative B. Turner, who introduced a group of award-winning participants in the Governor's Keep Texas Beautiful program.

SCR 102 - ADOPTED (Bailey - House Sponsor)

Representative Bailey moved to suspend all necessary rules to take up and consider at this time **SCR 102**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

SCR 102, Paying tribute to the memory of Assistant Fire Chief Dennis W. Holder.

SCR 102 was unanimously adopted by a rising vote.

HR 1164 - ADOPTED
(by Palmer)

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

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1164, Congratulating Thomas and Aurelya Reid on their 50th wedding anniversary.

HR 1164 was adopted without objection.

HR 1163 - ADOPTED
(by Maxey)

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

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1163, Honoring David Hagerla for his outstanding service as a legislative assistant.

HR 1163 was adopted without objection.

HR 1129 - ADOPTED
(by Kuempel)

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **HR 1129**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1129, Recognizing the Pecan Museum in Seguin.

HR 1129 was adopted without objection.

HR 1130 - ADOPTED
(by Kuempel)

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

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1130, Honoring Karen Simpson for her exemplary contributions to the New Braunfels Independent School District.

HR 1130 was adopted without objection.

HR 1131 - ADOPTED
(by Kuempel)

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **HR 1131**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1131, Congratulating Ken McGuire on his retirement as principal of New Braunfels Middle School.

HR 1131 was adopted without objection.

HCR 303 - ADOPTED
(by Tillery)

Representative Tillery moved to suspend all necessary rules to take up and consider at this time **HCR 303**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 303, In memory of Major Audie Murphy.

HCR 303 was unanimously adopted by a rising vote.

HCR 308 - ADOPTED
(by Kamel)

Representative Kamel moved to suspend all necessary rules to take up and consider at this time **HCR 308**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 308, Commemorating Dr. George F. Hamm's distinguished tenure as president of The University of Texas at Tyler.

HCR 308 was adopted without objection.

HR 1145 - ADOPTED
(by Kamel)

Representative Kamel moved to suspend all necessary rules to take up and consider at this time **HR 1145**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1145, Honoring the Ramirez family of Tyler.

HR 1145 was adopted without objection.

HR 1159 - ADOPTED
(by Kamel)

Representative Kamel moved to suspend all necessary rules to take up and consider at this time **HR 1159**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1159, Honoring Pamela Boson Erwin for her contributions to the Tyler community.

HR 1159 was adopted without objection.

**HR 1005 - ADOPTED
(by Uher)**

Representative Uher moved to suspend all necessary rules to take up and consider at this time **HR 1005**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1005, In memory of the Honorable George "Geo." Daniel Holst.

HR 1005 was unanimously adopted by a rising vote.

**HR 1061 - ADOPTED
(by Uher)**

Representative Uher moved to suspend all necessary rules to take up and consider at this time **HR 1061**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1061, In memory of Gustave A. "Goose" Franzen.

HR 1061 was unanimously adopted by a rising vote.

**HR 1146 - ADOPTED
(by McClendon)**

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 1146**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1146, Commemorating the 50th anniversary of Pace Foods.

HR 1146 was adopted without objection.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Carter requested permission for the Committee on Local and Consent Calendars to meet at this time.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Local and Consent Calendars, at this time, back hall.

INTRODUCTION OF GUESTS

The speaker recognized Representative Goodman, who introduced state law enforcement officers involved in the Fort Davis standoff.

HCR 269, commending the Texas Department of Public Safety for its effective handling of the Republic of Texas incident in Fort Davis, having been previously adopted, was read.

INTRODUCTION OF GUESTS

The speaker recognized Representatives Rangel and Raymond, who introduced members of Texas Department of Public Safety Trooper Roel Garcia's family.

(Speaker pro tempore in the chair)

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):

CSSB 1582 (Kuempel - House Sponsor), A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Guadalupe County Groundwater Conservation District.

SB 1942 (Gallego - House Sponsor), A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Culberson County Groundwater Conservation District; granting the power of eminent domain; authorizing the issuance of bonds and the imposition of taxes.

Amendment No. 1

Representative Gallego offered the following amendment to **SB 1942**:

Amend **SB 1942** by striking Section 9 and substituting the following:

SECTION 9. ELECTION OF DIRECTORS. (a) On the first Uniform election day in May of the first year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of two directors who shall each serve two-year terms and three directors who shall each serve four-year terms. The three directors receiving the most votes shall serve the four-year terms and the other two directors who are elected shall serve the two-year terms.

(b) Thereafter, on the first uniform election day in May of each subsequent second year, the appropriate number of directors shall be elected to the board.

Amendment No. 1 was adopted without objection.

SB 1949 was withdrawn.

SB 1956 (Hill - House Sponsor), A bill to be entitled An Act relating to the municipal courts of record in Garland.

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 24 (Telford - House Sponsor), A bill to be entitled An Act relating to the terms of the district courts in Bowie County.

SB 61 (Hilderbran and Naishtat - House Sponsors), A bill to be entitled An Act relating to the penalty for failure to report abuse of persons who are elderly or disabled.

SB 73 (Hirschi - House Sponsor), A bill to be entitled An Act relating to financial statements filed by judges of statutory county courts and statutory probate courts.

SB 115 (Maxey - House Sponsor), A bill to be entitled An Act relating to certain investigations conducted by the Department of Protective and Regulatory Services.

SB 116 was withdrawn.

SB 132 was withdrawn.

SB 136 was withdrawn.

SB 137 was withdrawn.

SB 138 was withdrawn.

SB 139 was withdrawn.

SB 140 was withdrawn.

SB 216 was withdrawn.

CSSB 294 (Maxey - House Sponsor), A bill to be entitled An Act relating to a study project involving the use of computer networks in public schools.

SB 322 (Holzheuser - House Sponsor), A bill to be entitled An Act relating to the filing of a petition stating an essential need for operating a motor vehicle.

SB 324 (Hawley - House Sponsor), A bill to be entitled An Act relating to application of the professional prosecutors law to the district attorney of the 24th Judicial District.

SB 344 (Brimer - House Sponsor), A bill to be entitled An Act relating to an exemption from ad valorem taxation for certain property acquired for use for a school.

SB 485 (Hartnett - House Sponsor), A bill to be entitled An Act relating to the joint listing on an ad valorem tax appraisal roll of separate interests in minerals in place. (Finnell recorded voting present, not voting)

CSSB 521 (West - House Sponsor), A bill to be entitled An Act relating to parental consent for certain activities in public schools.

SB 577 - STATEMENT OF LEGISLATIVE INTENT

The compromise reached in **SB 577** retains existing exemptions from the Real Estate License Act for this activity and for employees and agents of businesses engaging in the work, creates a registration system for right-of-way consultants, and provides for a complaint system for aggrieved persons.

Holzheuser

SB 577 (Holzheuser - House Sponsor), A bill to be entitled An Act relating to licensing and registration requirements under The Real Estate License Act; providing a penalty.

SB 607 (Goodman - House Sponsor), A bill to be entitled An Act relating to the assignment of certain appellate judges and justices as visiting judges.

SB 636 (Staples - House Sponsor), A bill to be entitled An Act relating to assistance to certain surface coal mining operators in the preparation of surface coal mining permit applications and to the eligibility of land and water affected by coal mining for reclamation or abatement expenditures.

SB 642 (Carter and Brimer - House Sponsors) A bill to be entitled An Act relating to abatement of common nuisances.

Amendment No. 1 (Committee Amendment No. 1)

Representative Carter offered the following committee amendment to **SB 642**:

Amend **SB 642**:

1. On page 1, line 22, Delete Subsection (b), and replace with a new Subsection (b) as follows:

(b)(1) A person who knowingly maintains a multi unit residential property described by Subsection (c) to which persons habitually go to commit the following acts:

(A) aggravated assault as described by Section 22.02, Penal Code;

(B) sexual assault as described by Section 22.011, Penal Code;

(C) Aggravated sexual assault as described by Section 22.021, Penal Code;

(D) robbery as described by Section 29.02, Penal Code;

(E) aggravated robbery as described by Section 29.03, Penal Code; or

(F) unlawfully carrying a weapon as described by Section 46.02, Penal Code; and

(2) who has failed to make reasonable attempts to abate such acts maintains a common nuisance.

2. On page 2, delete line 16 and replace it as follows:
located in a municipality that has a population of at least 440,000.

3. On page 2, delete lines 17-19.

Amendment No. 1 was adopted without objection.

SB 662 was withdrawn.

HR 1169 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1169**, suspending the limitations on the conferees for **HB 2542**.

CONSENT CALENDAR
(consideration continued)

SB 679 was withdrawn.

SB 921 (Rabuck - House Sponsor), A bill to be entitled An Act relating to the creation of the East Montgomery County Improvement District; authorizing a tax. (Horn and Kubiak recorded voting no)

CSSB 1066 (Delisi - House Sponsor), A bill to be entitled An Act relating to procurement practices by health and human services agencies, by certain other agencies with programs related to health or human services, and by certain public and private local providers of health or human services.

Amendment No. 1

On behalf of Representative Puente, Representative Delisi offered the following amendment to **CSSB 1066**:

Amend **CSSB 1066** as follows:

(1) On page 1, line 10, strike "AND WORKERS' COMPENSATION COMMISSION".

(2) On page 1, lines 12 through 13, strike ", and to the Texas Workers' Compensation Commission".

Amendment No. 1 was adopted without objection.

Amendment No. 2

On behalf of Representative Siebert, Representative Delisi offered the following amendment to **CSSB 1066**:

Amend **CSSB 1066** as follows:

(1) In SECTION 1 of the bill, in proposed Section 2155.144(e), Government Code, between "the agency" and "shall consult with", insert "shall notify the state auditor and" (house committee printing, page 2, between lines 25 and 26).

(2) In SECTION 1 of the bill, in proposed Section 2155.144(f), Government Code, between "goods and services" and the period, insert "before or after a warrant is issued to pay for an acquisition" (house committee printing, page 3, line 3).

Amendment No. 2 was adopted without objection.

CSSB 1107 (Oakley - House Sponsor), A bill to be entitled An Act relating to the provision of financial assistance to survivors of certain law enforcement officers, firefighters, and others. (Horn recorded voting no)

Amendment No. 1

On behalf of Representative Davis, Representative Moffat offered the following amendment to **CSSB 1107**:

Amend **CSSB 1107** as follows:

(1) In SECTION 2 of the bill, in proposed Section 615.021(a)(2)(C)(ii), Government Code, strike "individual died; or" and substitute "individual died; [or]" (House Committee Report, page 4, line 12).

(2) In SECTION 2 of the bill, in proposed Section 615.021(a)(2)(D)(ii), Government Code, between "died" and the period (House Committee Report, page 4, line 20) insert the following:

: or

(E) a surviving parent of the listed individual, if there is no surviving spouse, minor child, dependent parent eligible under Subdivision (2)(C), or dependent sibling eligible under Subdivision (2)(D)

(3) In SECTION 2 of the bill, between existing proposed Sections 615.021(a) and (b), Government Code (House Committee Report, page 4, between lines 20 and 21), insert the following:

(b) Payment of assistance may not occur under this subchapter unless an individual is eligible under Subsection (a).

(4) In SECTION 2 of the bill, in existing proposed Section 615.021(b), Government Code, strike "(b)" and substitute "(c)" (House Committee Report, page 4, line 21).

(5) Insert the following appropriately numbered SECTIONS in the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 615.024, Government Code, is amended to read as follows:

615.024. PAYMENT TO SURVIVING [~~DEPENDENT~~] PARENT. The state shall pay an eligible surviving [~~dependent~~] parent:

(1) \$50,000, if there is only one eligible surviving [~~dependent~~] parent;

or

(2) \$25,000 each, if there are two eligible surviving [~~dependent~~] parents.

Section _____. Section 615.025(c), Government Code, is amended to read as follows:

(c) A payment under this section is in addition to any payment made under Section 615.024 to a surviving dependent parent.

Amendment No. 1 was adopted without objection.

CSSB 1153 (Heflin - House Sponsor), A bill to be entitled An Act relating to the appraisal and ad valorem taxation of certain types of personal property.

SB 1221 (Hernandez - House Sponsor), A bill to be entitled An Act relating to restricting written reports required from public school employees. (Corte recorded voting no)

SB 1240 (Maxey - House Sponsor), A bill to be entitled An Act relating to the state's purchasing of services for state agency clients.

SB 1249 (Pitts - House Sponsor), A bill to be entitled An Act relating to the sale of property for delinquent ad valorem taxes.

Amendment No. 1

Representative Pitts offered the following amendment to **SB 1249**:

Amend **SB 1249** as follows: On page 6, line 2, strike the number "1998" and substitute the number "1997". On page 6, line 3, strike the number "1998" and substitute the number "1997". On page 6, line 8, strike the number "1998" and substitute the number "1997". On page 6, line 9, strike the number "1998" and substitute the number "1997".

Amendment No. 1 was adopted without objection.

SB 1263 (Naishtat - House Sponsor), A bill to be entitled An Act relating to requiring the Texas Workforce Commission, local workforce development boards and centers, and certain employers to provide tax assistance to certain individuals and families. (Heflin recorded voting no)

Amendment No. 1

Representative Naishtat offered the following amendment to **SB 1263**:

Amend **SB 1263** as follows:

(1) On page 1, line 8, between "Commission" and "provide" strike "shall" and substitute "may".

(2) On page 1, line 21, between "Commission" and "provide" strike "shall" and substitute "may".

(3) On page 2, line 18, between "commission" and "work" strike "shall" and substitute "may".

(4) On page 2, line 23, between "commission" and "use" strike "shall" and substitute "may".

Amendment No. 1 was adopted without objection.

SB 1291 (Dutton - House Sponsor), A bill to be entitled An Act relating to permitting policyholder dividends for multiple lines of insurance.

SB 1309 (Thompson - House Sponsor), A bill to be entitled An Act relating to the regulation of the use of electroconvulsive therapy.

LEAVE OF ABSENCE GRANTED

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

Flores on motion of Gutierrez.

CONSENT CALENDAR
(consideration continued)

SB 1384 (Hirschi - House Sponsor), A bill to be entitled An Act relating to counseling for certain persons in a suit for divorce or a suit affecting the parent-child relationship. (Horn and Kubiak recorded voting no)

SB 1412 (Danburg - House Sponsor), A bill to be entitled An Act relating to conduct requiring registration under the lobbying statute.

SB 1453 (Ramsay - House Sponsor), A bill to be entitled An Act relating to approval of the comptroller's account against the state.

SB 1469 (S. Turner - House Sponsor), A bill to be entitled An Act relating to certain construction projects managed by the General Services Commission.

CSSB 1486 (Siebert - House Sponsor), A bill to be entitled An Act relating to the regulation of motor carriers.

Amendment No. 1

Representative Siebert offered the following amendment to **CSSB 1486**:

Amend **CSSB 1486** as follows:

Strike Section 4 and renumber subsequent Sections accordingly.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Siebert offered the following amendment to **CSSB 1486**:

Amend **CSSB 1486** as follows:

- (1) On page 12, line 12, strike "when operated in intrastate commerce";
- (2) On page 12, line 15, strike "when operated in intrastate commerce".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Siebert offered the following amendment to **CSSB 1486**:

Amend **CSSB 1486** by adding an appropriately numbered section to read as follows and by renumbering the remaining sections as appropriate:

SECTION __. Subchapter A, Chapter 522, Transportation Code, is amended by adding Section 522.007 to read as follows:

Sec. 522.007. EXEMPTION FOR NEIGHBORING STATES. (a) The public safety director shall enter negotiations with an appropriate person or entity of a state bordering this state for the purpose of applying the exemption contained in Section 522.004(a)(1) to residents of that state.

(b) The public safety director may enter an agreement to apply the exemption contained in Section 522.004(a)(1) to residents of a bordering state only if that state extends a similar exemption to residents of this state.

Amendment No. 3 was adopted without objection.

CSSB 1563 (Hartnett - House Sponsor), A bill to be entitled An Act relating to the objection to certain assigned judges.

SB 1576 (Swinford - House Sponsor), A bill to be entitled An Act relating to the development of performance measures by the Texas Agricultural Finance Authority.

SB 1611 was withdrawn.

SB 1653 (Culberson - House Sponsor), A bill to be entitled An Act relating to campus or campus program charters.

SB 1766 (Palmer - House Sponsor), A bill to be entitled An Act relating to the creation, administration, powers, duties, operations, and financing of the Westworth Village-White Settlement Redevelopment Authority; granting the power of eminent domain.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Isett, Representative Palmer offered the following committee amendment to **SB 1766**:

Amend **SB 1766** as follows:

1. In Section 4, Subsection (1), on page 2, line 18, between "title" and "from", insert ", on approval by and in coordination with the governor,".

2. In Section 5, on page 3, line 18, between "exercise" and "all", insert ", on approval by and in coordination with the governor,".

Amendment No. 1 was adopted without objection.

SB 1787 (Patterson - House Sponsor), A bill to be entitled An Act relating to the restricted sale of wine for off-premises consumption by the holder of a winery permit in certain areas. (Finnell and Kubiak recorded voting no)

SB 1825 was withdrawn.

SB 1831 (Kamel - House Sponsor), A bill to be entitled An Act relating to sanitary facilities required on the premises of certain applicants for an alcoholic beverage license. (Finnell and Heflin recorded voting no)

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Goolsby, Representative Kamel offered the following committee amendment to **SB 1831**:

Amend **SB 1831** as follows:

(1) On page 3, line 7, following Section 1 of the bill, insert the following new section and renumber the subsequent sections appropriately:

SECTION 2. Sec. 438.034, Health and Safety Code, is amended to read as follows:

Sec. 438.034. EMPLOYEE CLEANLINESS. A person handling food or unsealed food containers shall:

- (1) maintain personal cleanliness;
- (2) wear clean outer garments;
- (3) keep the person's hands clean; and

(4) either (A) wash the person's hands and exposed portions of their arms with soap and water before starting work, during work as often as necessary to avoid cross-contaminating food and to maintain cleanliness, after smoking, eating, and each visit to the toilet or (B) avoid bare-hand contact with exposed food by use of gloves or utensils and hand wash after smoking, eating, and each visit to the toilet.

Amendment No. 1 was adopted without objection.

CSSB 1910 (Glaze - House Sponsor), A bill to be entitled An Act relating to the regulation of poultry operations. (Heflin recorded voting no)

SB 1918 (Greenberg - House Sponsor), A bill to be entitled An Act relating to the operation and administration of the Texas School for the Deaf.

SB 1919 (Greenberg - House Sponsor), A bill to be entitled An Act relating to the operation and administration of the Texas School for the Blind and Visually Impaired.

SB 1943 (Kuempel - House Sponsor), A bill to be entitled An Act relating to validating the creation and certain actions of the Comal County Fresh Water Supply District No. 1.

Amendment No. 1

Representatives Kuempel and King offered the following amendment to **SB 1943**:

Amend **SB 1943** as follows:

In SECTION 4, delete subsection (4), substitute the following, and add a new subsection (5):

(4) All governmental acts and proceedings of the Comal County Fresh Water Supply District No. 1 not excepted in this Act taken before May 20, 1997, are validated as of the dates on which they occurred.

(5) This Act does not validate any governmental acts or proceedings which were void or which, under the statutes of this state at the time the actions or proceedings occurred, were a misdemeanor or felony.

Amendment No. 1 was adopted without objection.

SB 1954 was withdrawn.

SB 1955 (Walker - House Sponsor), A bill to be entitled An Act relating to the transfer of certain occupational certification and licensing programs administered by the Texas Natural Resource Conservation Commission.

RESOLUTIONS CALENDAR

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

SCR 44 (Counts - House Sponsor), Encouraging the Texas Board of Criminal Justice, Texas Youth Commission, Juvenile Probation Commission, county commissioners, and sheriffs to support faith-based correctional programming and facilities

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Alexander, Representative Counts offered the following committee amendment to **SCR 44**:

Amend **SCR 44** on page 2, line 15, by striking ", church-centered", and on page 3, line 17 by striking ", church-based and".

Amendment No. 1 was adopted without objection.

SCR 44, as amended, was adopted without objection.

SCR 51 (Raymond - House Sponsor), Directing the Texas Department of commerce to increase technology-based investments in the state.

SCR 51 was adopted without objection.

SCR 77 (Counts - House Sponsor), Recommending that the purchase of the Allens Creek Reservoir site be ranked as a high priority by the Texas Water Development Board.

SCR 77 was withdrawn.

HCR 278 (by McClendon), Directing the Department of Public Safety to study the feasibility of implementing a COP program statewide.

HCR 278 was adopted without objection.

HCR 279 (by McClendon), Directing the Texas Department of Health to study the state's implementation of the federal requirements under EPCRA.

HCR 279 was adopted without objection.

SB 1949 - OBJECTIONS WITHDRAWN

Objections were withdrawn to **SB 1949** which was previously withdrawn from the local, consent, and resolutions calendar.

SB 1949 (E. Reyna - House Sponsor), A bill to be entitled An Act relating to the powers, duties, administration, financing, and operation of the Falcon's Lair Utility and Reclamation District; granting the authority to issue bonds.

SB 1949 was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Counts, Representative E. Reyna offered the following committee amendment to **SB 1949**:

Amend **SB 1949** as follows:

(1) In Section 4 (proposed Section 20A(b), Chapter 935, Acts of the 69th Legislature, Regular Session, 1985), page 3, lines 10-12, of the bill, strike the following:

"If the board determines there is a benefit to the district, the district may provide an improvement or service to an area outside the boundaries of the district."

(2) In Section 4 (proposed Section 20A(c), Chapter 935, Acts of the 69th Legislature, Regular Session, 1985), page 3, line 15, of the bill, strike "recreational facilities.".

Amendment No. 1 was adopted without objection.

SB 1949, as amended, was passed to third reading.

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).

CSSB 662 - OBJECTIONS WITHDRAWN

Objections were withdrawn to **CSSB 662** which was previously withdrawn from the local, consent, and resolutions calendar.

CSSB 662 (Carter and Hupp - House Sponsors), A bill to be entitled An Act relating to the unauthorized practice of chiropractic; providing civil and administrative penalties and injunctive relief.

CSSB 662 was read second time.

Amendment No. 1

Representative Carter offered the following amendment to **CSSB 662**:

Amend **CSSB 662** as follows:

By inserting on page 2, line 8 of the bill between the word "facility" and the semicolon the following:

"provided, however, nothing in this section shall permit the Board to adopt a rule to require that a person who owns, maintains or operates a chiropractic facility be a licensed chiropractor"

Amendment No. 1 was adopted.

CSSB 662 was withdrawn.

SCR 77 - OBJECTIONS WITHDRAWN

Objections were withdrawn to **SCR 77** which was previously withdrawn from the local, consent, and resolutions calendar.

SCR 77 (Counts - House Sponsor), Recommending that the purchase of the Allens Creek Reservoir site be ranked as a high priority by the Texas Water Development Board.

SCR 77 was adopted without objection. (Burnam, Danburg, Ehrhardt, Hirschi, Horn, and Naishtat recorded voting no)

PROVIDING FOR A CONGRATULATORY AND MEMORIAL CALENDAR

Representative Edwards moved to set a congratulatory and memorial calendar for 10 a.m. Friday, May 30.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Rules and Resolutions, on adjournment today, Desk 133, to consider the calendar.

ADJOURNMENT

Representative Yarbrough moved that the house adjourn until 1:15 p.m. today.

The motion prevailed without objection.

The house accordingly, at 1:11 p.m., adjourned until 1:15 p.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. 71

HB 1703, HB 1751, HB 1756, HB 1780, HB 1960, HB 2078, HB 2169, HB 2202, HB 2203, HB 2213, HB 2221, HB 2222, HB 2227, HB 2257, HB 2273, HB 2309, HB 2564, HB 2622, HB 2633, HB 2634, HB 2671, HB 2731, HB 2749, HB 2779, HB 2795, HB 2868, HB 2919, HB 2982, HB 2997, HB 3027, HB 3074, HB 3076, HB 3077, HB 3078, HB 3105,

HB 3106, HB 3176, HB 3330, HB 3368, HB 3436, HB 3437, HB 3557, HB 3566, HB 3569, HB 3591, HCR 2, HCR 23, HCR 149, HCR 151, HCR 156, HCR 168, HCR 209, HCR 211, HCR 212, HCR 228, HCR 232, HCR 235, HCR 236

Senate List No. 36

SB 79, SB 95, SB 135, SB 143, SB 220, SB 291, SB 310, SB 325, SB 333, SB 455, SB 474, SB 495, SB 502, SB 631, SB 672, SB 882, SB 1137, SB 1354, SB 1514, SB 1566, SB 1568, SB 1596, SB 1624, SB 1929, SJR 17

MESSAGE FROM THE SENATE

The following message from the senate was today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, May 28, 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:

HB 2909 Carter SPONSOR: Patterson
Relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons. (AMENDED)

HCR 45 Eiland SPONSOR: Patterson
In memory of Edna Seinsheimer Levin.

HCR 124 Allen SPONSOR: West
Recognizing March 12, 1997, as Grand Prairie Day at the Capitol.

HCR 213 Eiland SPONSOR: Patterson
Congratulating the Friendswood High School Academic Decathlon team.

HCR 277 Jones, Jesse SPONSOR: Cain
Congratulating Willie Lee Campbell Glass on her receipt of an Iowa State University alumni award.

HCR 299 Turner, Bob SPONSOR: Brown
Instructing the enrolling clerk of the house of representatives to make a correction to **HB 1144**.

HCR 301 Goodman SPONSOR: West
Instructing the enrolling clerk of the house of representatives to correct **HB 1917**.

HCR 304 Yarbrough SPONSOR: Whitmire
In memory of Naomi Stribling Vanduring.

HCR 307 Siebert SPONSOR: Cain
Instructing the enrolling clerk of the house of representatives to correct **HB 2101**.

Respectfully,

Betty King
Secretary of the Senate

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HOUSE JOURNAL

SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-FIFTH DAY — WEDNESDAY, MAY 28, 1997

The house met at 1:15 p.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 574).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; 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; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Delisi; Flores; Hupp; Krusee; Smithee.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Garcia.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for today to attend a meeting of the conference committee on **SB 1**:

R. Lewis on motion of Keel.

Cook on motion of Keel.

Counts on motion of Keel.

Puente on motion of Keel.

Walker on motion of Keel.

The following members were granted leaves of absence temporarily for today because of important business:

Hupp on motion of Edwards.

Delisi on motion of Edwards.

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.

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 1582

SB 1956

SB 24

SB 61

SB 73

SB 115

SB 322

SB 344

SB 485 (Finnell - present, not voting)

SB 521

SB 577

SB 607

SB 636

SB 642

SB 1066

SB 1107 (Horn - no)
SB 1153
SB 1221 (Corte - no)
SB 1249
SB 1263 (Heflin - no)
SB 1291
SB 1309
SB 1384 (Horn and Kubiak - no)
SB 1412
SB 1469
SB 1486
SB 1563
SB 1576
SB 1653
SB 1787 (Finnell and Kubiak - no)
SB 1831 (Finnell and Heflin - no)
SB 1910 (Heflin - no)
SB 1918
SB 1919
SB 1943
SB 1955

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 575): 136 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; Corte; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; 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; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Delisi; Flores; Hupp; Krusee; Smithee.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Garcia.

SB 1942 (136-0-2)

SB 1949 (136-0-2)

SB 294 (136-0-2)

SB 324 (136-0-2)

SB 921 (Horn and Kubiak - no) (134-2-2)

SB 1240 (136-0-2)

SB 1453 (136-0-2)

SB 1766 (136-0-2)

HR 1170 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1170**, suspending the limitations on the conferees for **SB 841**.

HR 1101 - ADOPTED

(by Carter, Jackson, Uher, and Goolsby)

Representative Carter moved to suspend all necessary rules to take up and consider at this time **HR 1101**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

HR 1101, Recognizing May 25-31, 1997, as Texas Space and Technology Week.

HR 1101 was read and was adopted without objection.

On motion of Representatives Hilderbran and Kubiak, the names of all the members of the house were added to **HR 1101** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representatives Carter and Jackson, who introduced a group from the Johnson Space Center, United Space Astronauts, and the Texas Aerospace Commission.

Dr. George Abbey, director of the Johnson Space Center, addressed the house briefly.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Public Safety, on recess today, Desk 43, to consider **HR 1056**.

RECESS

Representative Kuempel moved that the house recess until 2:45 p.m. today.

The motion prevailed without objection.

The house accordingly, at 1:35 p.m., recessed until 2:45 p.m. today.

AFTERNOON SESSION

The house met at 2:45 p.m. and was called to order by the speaker.

**HR 1169 - ADOPTED
(by Kuempel)**

The speaker laid before the house the following privileged resolution:

HR 1169

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be suspended in part, as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 2542** to consider and take action on the following specific matters:

(1) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text incorporating new SECTIONS in the bill, appropriately numbered, amending the Parks and Wildlife Code to authorize the establishment of a crab license management program to read as follows:

SECTION __. The heading of Chapter 78, Parks and Wildlife Code, is amended to read as follows:

CHAPTER 78. MUSSELS, ~~[AND]~~ CLAMS, AND CRABS

SECTION __. Sections 78.001 through 78.007, Parks and Wildlife Code, are designated as Subchapter A, Chapter 78, Parks and Wildlife Code, and a heading for Subchapter A, Chapter 78, Parks and Wildlife Code, is added to read as follows:

SUBCHAPTER A. MUSSELS AND CLAMS

SECTION __. Chapter 78, Parks and Wildlife Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. CRAB LICENSE MANAGEMENT

Sec. 78.101. CRAB LICENSE MANAGEMENT PROGRAM. To promote efficiency and economic stability in the crabbing industry and to conserve economically important crab resources, the department shall implement a crab license management program in accordance with proclamations adopted by the commission under Chapter 61 and this subchapter.

Sec. 78.102. DEFINITIONS. In this subchapter:

(1) "Crab" means all species in the families Portunidae and Xanthidae.

(2) "Commercial crab fishing" means pursuing, taking, attempting to take, or landing crabs in this state for pay or for the purpose of sale, barter, or exchange.

(3) "License" means a commercial license issued in accordance with a proclamation under this subchapter that authorizes commercial crab fishing or the operation of a commercial crab boat.

Sec. 78.103. CRAB LICENSE MANAGEMENT REVIEW BOARD.

(a) The license holders under this chapter shall elect a crab license management review board with an odd number of members greater than four and fewer than 12.

(b) A member of the review board must be a license holder under this subchapter or a wholesale fish dealer as defined by Section 47.001 with knowledge of the commercial crab fishing industry.

(c) A majority of the members of the review board may not be residents of the same county.

(d) The review board shall advise the commission and department and make recommendations concerning the administrative aspects of the crab licensing program, including the definition of flagrant offenses, and hardship appeal cases concerning eligibility, license transfer, license renewal, license suspension, and license revocation.

(e) The executive director shall adopt procedures for determining the size and operations of the review board and the election and terms of board members. The executive director shall solicit and consider recommendations regarding these procedures from persons who purchased crab trap tags after September 1, 1995, and before August 31, 1996, or from holders of licenses issued under this subchapter.

(f) The review board is not subject to Article 6252-33, Revised Statutes.

(g) A member of the review board serves without compensation or a per diem allowance.

Sec. 78.104. LICENSING. (a) If the commission adopts one or more licenses to be issued under this subchapter, a person may not engage in commercial crab fishing without a license adopted by the commission. If the commission adopts a commercial crab boat license to be issued under this subchapter, a person may not operate a boat for the purpose of commercial crab fishing without having a boat license as prescribed by the commission.

(b) A proclamation under this section requiring a license must contain findings by the commission that support the need for the proclamation. In determining the need for a license requirement, the commission shall consider:

(1) measures to prevent waste or depletion of crabs while achieving, on a continuing basis, the optimum yield for the fishery;

(2) the best scientific information available;

(3) the effect a licensing program would have on the management of crabs throughout the jurisdictional range;

(4) the need to promote, where practicable, efficiency in using crabs;
and

(5) the need to enhance enforcement.

(c) A proclamation issued under this section may:

(1) establish a license that is issued to a person, to a person and

limited to a vessel, or to a person according to the equipment used in commercial crab fishing, including issuing tags for crab traps placed in public waters under Section 66.018;

(2) establish eligibility requirements for a license, including the use of historical participation in the industry or participation in the industry after August 31, 1995, and before November 14, 1996;

(3) establish requirements for license transfer;

(4) prohibit license transfer during certain time periods; and

(5) establish a lottery or an auction for issuing licenses.

Sec. 78.105. LICENSE FEE. The fee for a license is \$500, or an amount set by the commission, whichever amount is more. All fees generated by the issuance of a license under this subchapter are to be sent to the comptroller for deposit to the credit of the game, fish, and water safety account.

Sec. 78.106. LICENSE RENEWAL. A person seeking to renew a license established by this subchapter must have held the license during the preceding license year.

Sec. 78.107. LIMIT ON NUMBER OF LICENSES HELD. (a) A person may not hold or directly or indirectly control more than three licenses issued under this subchapter other than an equipment license.

(b) A license issued to a person other than an individual must designate an individual in whose name the license will be issued.

Sec. 78.108. EXPIRATION OF LICENSE. A license required by this subchapter is valid only during the period for which it is issued without regard to the date on which the license is acquired. Each period is one year beginning on September 1 or another date set by the commission.

Sec. 78.109. LICENSE TRANSFER. (a) The commission by rule may set a fee for the transfer of a license. The amount of the fee may not exceed the amount of the license fee.

(b) The commission shall send all license transfer fees to the comptroller for deposit to the credit of the game, fish, and water safety account.

(c) The commission by proclamation shall allow a license to be transferred beginning not later than September 1, 2001. The commission shall annually review the decision regarding license transfer.

(d) Notwithstanding Subsection (c), a license may be transferred at any time to an heir or devisee of a deceased license holder, but only if the heir or devisee is a person who in the absence of a will would be entitled to all or a portion of the deceased's property.

Sec. 78.110. LICENSE SUSPENSION AND REVOCATION. (a) The executive director, after notice to a license holder and the opportunity for a hearing, may suspend or revoke a license if the license holder or any other operator of a licensed vessel is shown to have been convicted of one or more flagrant offenses defined by a proclamation of the commission during a period described by the proclamation of the commission.

(b) A license suspension does not affect the license holder's eligibility to renew the license after the suspension expires.

(c) The same flagrant offense may not be counted for more than one suspension under this section.

Sec. 78.111. LICENSE BUYBACK. (a) The department may implement

a license buyback program as part of the crab license management program established by this subchapter.

(b) The commission by rule may establish criteria, using reasonable classifications, by which the department selects licenses to be purchased. The commission may delegate to the executive director, for purposes of this section only, the authority to develop the criteria through rulemaking procedures, but the commission by order must finally adopt the rules establishing the criteria. The commission or executive director must consult with the crab license management review board concerning establishment of the criteria.

(c) The commission must retire each license purchased under the license buyback program until the commission finds that management of the crab fishery allows reissue of those licenses through auction or lottery.

(d) The department shall set aside at least 20 percent of the fee from commercial crab licenses and transfer fees to be used only for the purpose of buying back commercial crab licenses from a willing license holder. That money shall be sent to the comptroller for deposit to the credit of the game, fish, and water safety account.

(e) The department may accept grants and donations of money or materials from private or public sources for the purpose of buying back commercial crab licenses from a willing license holder and shall send the accepted money or material to the comptroller for deposit to the credit of the game, fish, and water safety account to be used only for the purpose of buying back commercial crab licenses from a willing license holder.

(f) Money to be used for the purpose of buying back commercial crab licenses is not subject to Section 403.095, Government Code.

Sec. 78.112. PROGRAM ADMINISTRATION; RULES. (a) The executive director shall establish administrative procedures to carry out the requirements of this subchapter.

(b) The commission shall adopt any rules necessary for the administration of the program established under this subchapter.

Sec. 78.113. DISPOSITION OF FUNDS. Money received for a license issued under this subchapter or fines for violations of this subchapter shall be remitted to the department by the 10th day of the month following the date of collection.

Sec. 78.114. PROCLAMATION; PROCEDURES. Subchapter D, Chapter 61, and Sections 61.054 and 61.055 apply to the adoption of proclamations under this subchapter.

SECTION __. Section 47.002, Parks and Wildlife Code, is amended by adding Subsection (h) to read as follows:

(h) A person who engages in or assists in commercial crab fishing under Subchapter B, Chapter 78, and who holds a license for that activity is not required to obtain or possess a general commercial fisherman's license or a commercial fishing boat license.

SECTION __. Section 66.018, Parks and Wildlife Code, is amended by amending Subsections (a), (c), and (d) and adding Subsection (f) to read as follows:

(a) The department may [~~shall~~] issue [~~numbered~~] tags for crab traps placed in public water.

(c) A crab trap tag issued under this section shall be attached to each crab trap placed in public water. The department may [~~shall~~] collect a maximum fee of \$1.50 for each tag issued under this section; provided, however, that upon adoption of a crab management plan and the establishment of a crab advisory committee, the commission may determine the amount of the fee.

(d) No person may place a crab trap in public water unless a crab trap tag is attached to the trap unless a proclamation under Subchapter B, Chapter 78, requires a license that does not require the use of crab trap tags.

(f) If the commission adopts a license under Subchapter B, Chapter 78, the department may not collect a fee for any crab trap tag.

Explanation: This change is necessary to authorize the Texas Parks and Wildlife Commission to establish a crab license management program.

(2) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text incorporating new SECTIONS of the bill, appropriately numbered, adding transitional material to the bill relating to the amendments to the Parks and Wildlife Code establishing a crab license management program to read as follows:

SECTION __. Notwithstanding Section 78.103, Parks and Wildlife Code, as added by this Act, a person is eligible to vote in the election of or serve on the initial crab license management review board only if the person purchased crab trap tags after September 1, 1995, and before August 31, 1996, except that wholesale fish dealers with knowledge of the commercial crab fishing industry may also serve on the board. The initial board shall consist of an odd number of members greater than four and fewer than 12. The election of the initial board shall be held before November 1, 1997, or as soon as practicable after that date.

SECTION __. The Parks and Wildlife Department shall issue a written report to the governor and the legislature not later than January 1, 2001, that includes an overview of the administration and status of the crab license management program, including the biological, social, and economic effects of the program.

Explanation: This change is necessary to establish eligibility criteria and election procedures for the initial crab license management review board and to require the Parks and Wildlife Department to report on the status of the crab license management program.

(3) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add an appropriately numbered SECTION to the bill requiring the Parks and Wildlife Department to respond to certain reports and to read as follows:

SECTION __. (a) Not later than October 1, 1997, the Parks and Wildlife Department shall submit to the legislature a report describing the actions the department has taken, and the actions the department plans to take during the 1998-1999 biennium, to address deficiencies in maintenance, operational support, and promotion of historic structures, sites, and parks under the department's jurisdiction. The report shall respond in detail to the findings and recommendations included in the study of state historic sites conducted for the department and the Texas Historical Commission by KPMG Peat Marwick, L.L.P., and submitted to those agencies in January 1997.

(b) Copies of the department's report shall be delivered to the lieutenant

governor, the speaker of the house of representatives, and the presiding officers of the senate and house standing committees having jurisdiction over matters relating to preservation of state historic structures, sites, and parks.

Explanation: This change is necessary to require the Parks and Wildlife Department to respond to a report regarding the administration of historic sites.

HR 1169 was adopted without objection.

(Krusee now present)

(Hightower in the chair)

**HR 1175 - ADOPTED
(by Kubiak)**

Representative Kubiak moved to suspend all necessary rules to take up and consider at this time **HR 1175**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

HR 1175, In memory of Joann S. Conoley.

HR 1175 was read and was unanimously adopted by a rising vote.

On motion of Representative Hirschi, the names of all the members of the house were added to **HR 1175** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Kubiak, who introduced members of Joann S. Conoley's family.

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).

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. 72, 73, and Senate List No. 37).

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

The chair laid before the house the following privileged resolution:

HR 1170

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 841** to consider and take action on the following specific matters:

1. House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version

of the bill. The added text amends the heading to Chapter 41, Tax Code, to read as follows:

CHAPTER 41. ADMINISTRATIVE ~~[LOCAL]~~ REVIEW

EXPLANATION: This addition is necessary because Subchapter E, Chapter 41, Tax Code, as added by the bill, authorizes determination of a protest by the State Office of Administrative Hearings as an alternative to determination of the protest by the local appraisal review board, and, although both governmental entities are administrative entities, the State Office of Administrative Hearings is not a local entity.

2. House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill. The added text amends Section 41.12, Tax Code, by adding Subsection (c) to read as follows:

(c) A protest upon which a determination is pending under Subchapter E is not considered to be an undetermined protest for the purposes of Subsection (b).

EXPLANATION: This addition is necessary to provide that a protest upon which a determination by the State Office of Administrative Hearings is pending is not considered to be an undetermined protest for purposes of the prohibition on an appraisal review board's approving the appraisal records if the sum of the appraised values, as determined by a chief appraiser, of all properties on which a protest has been filed but not determined is more than five percent of the total appraised value of all other taxable properties.

3. House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill. The added text amends Chapter 41, Tax Code, by adding Subchapter E to read as follows:

SUBCHAPTER E. DETERMINATION OF PROTEST BY STATE
OFFICE OF ADMINISTRATIVE HEARINGS

Sec. 41.91. DEFINITION. In this subchapter, "office" means the State Office of Administrative Hearings.

Sec. 41.92. RULES. The office shall adopt rules of practice and procedure for protest proceedings under this subchapter.

Sec. 41.93. ELECTION OF REMEDIES. (a) A property owner is entitled to have the office conduct a hearing and determine a protest if:

(1) the property has an appraised value of at least \$1 million as determined by the chief appraiser; and

(2) the property owner:

(A) files a notice of protest with the appraisal review board under Section 41.44;

(B) is entitled to a hearing and determination of a protest under that section;

(C) requests in the notice of protest that the office conduct the hearing and determine the protest;

(D) states in the notice of protest the appraised value of the property in the opinion of the property owner; and

(E) pays a filing fee of \$100 with the notice of protest.

(b) A property owner who submits a request under this section waives the

right to a hearing and determination of the protest by the appraisal review board.

(c) A property owner forfeits the right to a determination by the office of a protest under this subchapter if the property owner does not pay before the delinquency date each taxing unit the amount of taxes the property owner would be required to pay under Section 42.08 to preserve the right to judicial review of a determination by the appraisal review board.

Sec. 41.94. FORWARDING OF NOTICE OF PROTEST AND FILING FEE TO OFFICE. On receipt of a notice under Section 41.93 and the required filing fee, the appraisal review board shall forward the notice and the filing fee to the office.

Sec. 41.95. CONTESTED CASE. Except as otherwise provided by this subchapter, the provisions of Chapter 2001, Government Code, applicable to a contested case apply to the determination of a protest under this subchapter.

Sec. 41.96. BURDEN OF PROOF. Section 41.43 applies to the determination of a protest under this subchapter.

Sec. 41.97. HEARING ON AND DETERMINATION OF PROTEST. (a) The administrative law judge to whom the protest is assigned shall conduct a hearing on the protest.

(b) The hearing shall be held at:

(1) the appraisal office; or

(2) another location convenient to the property owner and the chief appraiser.

(c) The administrative law judge shall issue a final order determining the protest. The final order is binding on the parties and the appraisal review board.

Sec. 41.98. NOTIFICATION OF DETERMINATION; CORRECTION OF APPRAISAL RECORDS. (a) The office shall notify the property owner, chief appraiser, and appraisal review board of the final order determining the protest.

(b) The appraisal review board by written order shall determine the protest in accordance with the final order and shall correct the appraisal records as necessary to conform to the order.

Sec. 41.99. COSTS OF HEARING. The appraisal district shall reimburse the office for the office's costs of conducting hearings under this subchapter.

Sec. 41.100. SANCTIONS. The administrative law judge may impose sanctions against a party or its representative as provided by Sections 2003.047(i) and (j), Government Code, as added by Chapter 765, Acts of the 74th Legislature, 1995.

Sec. 41.101. APPEAL. An order of the appraisal review board determining a protest under this subchapter is considered to have been issued under Subchapter C for purposes of appeal under Chapter 42, except that judicial review of the protest is under the substantial evidence rule.

EXPLANATION: This addition is necessary to provide as an alternative to determination of a protest by an appraisal review board that a property owner is entitled to have the State Office of Administrative Hearings conduct a hearing and determine the protest.

HR 1170 was adopted without objection.

RESOLUTIONS REFERRED TO COMMITTEES

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

(Speaker in the chair)

**MAJOR STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 1898 ON THIRD READING
(Junell - House Sponsor)**

SB 1898, A bill to be entitled An Act relating to making emergency appropriations.

Amendment No. 1

Representative Junell offered the following amendment to **SB 1898**:

Amend **SB 1898** on Third Reading by amending the section of the bill relating to centers for teacher education, as added by Floor Amendment No. 2 on Second Reading, to read as follows:

SECTION _____. TEXAS HIGHER EDUCATION COORDINATING BOARD. (a) In addition to other amounts appropriated for the fiscal biennium beginning September 1, 1997, the sum of \$1,250,000 is appropriated for the fiscal year ending August 31, 1998, and the additional sum of \$1,250,000 is appropriated for the fiscal year ending August 31, 1999, from the general revenue fund to the Texas Higher Education Coordinating Board for the purpose of supporting centers for teacher education at private, independent, general academic institutions that are component institutions of the Texas Association of Developing Colleges. Consideration shall be given to teacher education centers at Jarvis Christian College in Hawkins, Paul Quinn College in Dallas, Texas College in Tyler, Huston-Tillotson College in Austin, and Wiley College in Marshall. The board may require the periodic submission of data and reports as the board considers necessary to assess the overall performance of the centers.

(b) The Texas Higher Education Coordinating Board shall retain two percent of the appropriations made by Subsection (a) of this section for the costs of on-site monitoring and distribution of funds. The board may use a portion of the amounts retained to obtain the services of a program planner to facilitate and coordinate the process of curriculum development and program redesign to improve teacher preparation at the participating institutions.

Amendment No. 1 was adopted without objection.

A record vote was requested.

SB 1898, as amended, was passed by (Record 576): 131 Yeas, 7 Nays, 1 Present, not voting.

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

Nays — Christian; Clark; Denny; Grusendorf; Nixon; Shields; Talton.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Flores; Hupp; Smithee.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Garcia.

STATEMENT OF VOTE

I was shown voting yes on Record No. 576. I intended to vote no.

Hartnett

The speaker stated that **SB 1898** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

(Smithee now present)

SB 360 ON THIRD 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.

Amendment No. 1

Representative Telford offered the following amendment to **SB 360**:

Amend **SB 360** on third reading as follows:

(1) In Article 4 of the bill, add a section to the article, to be numbered appropriately, to read as follows:

SECTION 4.____. Section 443.002, Government Code, is amended to read as follows:

Sec. 443.002. SUNSET PROVISION. The State Preservation Board is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 1999 [~~1997~~].

(2) In Article 6 of the bill, add a section to the article, to be numbered appropriately, to read as follows:

SECTION 6.____. Notwithstanding another provision of this Act, the section of this Act that amends Section 443.002, Government Code, takes effect only if the 75th Legislature, Regular Session, 1997, does not not enact other legislation that becomes law and that amends Section 443.002, Government Code, to extend the sunset date of the State Preservation Board.

(3) Renumber the sections of the bill appropriately.

Amendment No. 1 was adopted without objection.

SB 360, as amended, was passed.

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 241 ON THIRD READING
(Giddings - House Sponsor)**

SB 241, A bill to be entitled An Act relating to construction contract provisions, construction trust funds, and the creation of and management policies applicable to a construction account created to hold funds associated with a construction contract; providing criminal penalties.

SB 241 was passed. (Heflin recorded voting no)

**SB 576 ON THIRD READING
(Gallego - House Sponsor)**

SB 576, A bill to be entitled An Act relating to the establishment of the Texas New Horizons Scholarship Trust Fund to exempt worthy high school graduates from tuition and fees at public institutions of higher education.

SB 576 was passed. (Heflin recorded voting no)

**SB 548 ON THIRD READING
(J. Jones - House Sponsor)**

SB 548, A bill to be entitled An Act relating to the punishment for the offense of unlawfully transferring a weapon.

SB 548 was passed.

**SB 1100 ON THIRD READING
(D. Jones - House Sponsor)**

SB 1100, A bill to be entitled An Act relating to the regulation of real estate brokers, salespersons, and inspectors.

Amendment No. 1

Representative Pickett offered the following amendment to **SB 1100**:

Amend **SB 1100** on third reading by adding the following new section of the bill to read as follows and by renumbering subsequent sections of the bill accordingly:

SECTION _____. Section 14(c), The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Each nonresident applicant shall file an irrevocable consent that legal actions may be commenced against him in the proper court of any county of this state in which a cause of action may arise, or in which the plaintiff may reside, by service of process or pleading authorized by the laws of this state, or by serving the administrator or assistant administrator of the commission. The consent shall stipulate that the service of process or pleading shall be valid and binding in all courts as if personal service had been made on the nonresident in this state. The consent shall be duly acknowledged, and if made by a corporation, shall be authenticated by its seal. A service of process or pleading served on the commission shall be by duplicate copies, one of which shall be filed in the office of the commission and the other forwarded by registered mail to the last known principal address which the commission has for the nonresident against whom the process or pleading is directed. No default in an action may be taken except on certification by the commission that a copy of the process or pleading was mailed to the defendant as provided in this section, and no default judgment may be taken in an action or proceeding until 20 days after the day of mailing of the process or pleading to the defendant.

Notwithstanding any other provision of this subsection, a resident of another [nonresident of this] state who resides within one mile of the border of this state [in a city whose boundaries are contiguous at any point to the boundaries of a city of this state], and who has been an actual bona fide resident of the area in which the person resides [that city] for at least 60 days immediately preceding the filing of his application, is eligible to be licensed as a real estate broker or salesman under this Act in the same manner as a resident of this state. If he is licensed in this manner, he shall at all times maintain a place of business either in the area [city] in which he resides or in a [the] city in this state which is contiguous to the area [city] in which he resides, and he may not maintain a place of business at another location in this state unless he also complies with the requirements of Section 14(b) of this Act. The place of business must satisfy the requirements of Subsection (a) of Section 12 of this Act, but the place of business shall be deemed a definite place of business in this state within the meaning of Subsection (a) of Section 12.

Amendment No. 1 failed of adoption.

Amendment No. 2

Representative Pickett offered the following amendment to **SB 1100**:

Amend **SB 1100**, on third reading, in SECTION 4 of the bill, as added by the Staples Amendment, in amended Section 7A(a), The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes), by inserting, at the end of the subsection, the following:

Each one hour course segment must contain at least 50 minutes of instruction and may not be conducted in conjunction with the service of food or alcohol. Any segment of a continuing education course offered under this section may not contain a solicitation by a Texas trade association, as defined by Section 5(b) of this Act, for membership in the Texas trade association or a solicitation of funds by a political action committee.

A record vote was requested.

Amendment No. 2 failed of adoption by (Record 577): 18 Yeas, 108 Nays, 2 Present, not voting.

Yeas — Burnam; Chavez; Ehrhardt; Gallego; Goolsby; Keel; King; Moreno; Pickett; Pitts; Rangel; Reyna, A.; Rhodes; Serna; Solis; Solomons; Wise; Wolens.

Nays — Alexander; Allen; Alvarado; Averitt; Bailey; Bonnen; Bosse; Brimer; Carter; Chisum; Christian; Clark; Coleman; Corte; Crabb; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Eiland; Elkins; Farrar; Finnell; Galloway; Goodman; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Isett; Jackson; Janek; Jones, D.; Junell; Kamel; Keffer; Krusee; Kubiak; Kuempel; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Place; Price; Rabuck; Ramsay; Raymond; Reyna, E.; Roman; Seaman; Shields; Siebert; Smith; Smithee; Staples; Stiles; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; West; Williams; Williamson; Wilson; Wohlgenuth; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Delisi; Flores; Hupp.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Berlanga; Craddick; Edwards; Garcia; Giddings; Glaze; Hamric; Hirschi; Jones, J.; Moffat; Sadler; Swinford; Turner, S.

STATEMENTS OF VOTE

When Record No. 577 was taken, I was temporarily out of the house chamber. I would have voted no.

Craddick

When Record No. 577 was taken, I was in the house but away from my desk. I would have voted no.

Hamric

When Record No. 577 was taken, my vote failed to register. I would have voted no.

Swinford

SB 1100 was passed.

SB 1253 ON THIRD READING **(Naishtat and Goodman - House Sponsors)**

SB 1253, A bill to be entitled An Act relating to protective orders for family violence.

Amendment No. 1

Representatives Naishtat and Goodman offered the following amendment to **SB 1253**:

Amend **SB 1253** on third reading by adding the following appropriately numbered sections and renumbering the sections of the bill accordingly:

SECTION _____. Chapter 71, Family Code, as added by **SB 797**, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Section 71.008 to read as follows:

Sec. 71.008. PROTECTIVE ORDER FROM ANOTHER JURISDICTION. "Protective order from another jurisdiction" means a protective order rendered by a military court or a court of another state, tribe, or territory related to protecting an individual from domestic or family violence and that meets the following requirements:

(1) the order is rendered by a court that has jurisdiction over the parties and the matter under the law of the military, state, tribe, or territory; and

(2) the respondent is given notice and an opportunity to be heard consistent with due process either:

(A) before the date the order was rendered; or

(B) in the case of an ex parte order, within the time required by the jurisdiction rendering the order after the date the order is rendered, but not later than a reasonable time.

SECTION _____. Chapter 86, Family Code, as added by **SB 797**, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Section 86.005 to read as follows:

Sec. 86.005. PROTECTIVE ORDER FROM ANOTHER JURISDICTION. (a) To ensure that law enforcement officers responding to calls are aware of the existence and terms of a protective order from another jurisdiction, each law enforcement agency shall establish procedures in the agency to provide adequate information or access to information for law enforcement officers regarding the name of each person protected by an order rendered in another jurisdiction and of each person against whom the protective order is directed.

(b) Unless a law enforcement officer knows that the protective order has expired, the officer shall rely on:

(1) a copy of a protective order from another jurisdiction that has been provided to the officer by any source; and

(2) the statement by a person protected by the order that the order remains in effect.

(c) A law enforcement officer acting in good faith is not subject to civil or criminal liability for any action arising in connection with the enforcement of a protective order issued in another jurisdiction that a court later determines was not entitled to full faith and credit under Chapter 88.

SECTION _____. Subtitle B, Title 4, Family Code, as added by **SB 797**, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Chapter 88 to read as follows:

CHAPTER 88. PROTECTIVE ORDER FROM ANOTHER JURISDICTION

Sec. 88.001. FULL FAITH AND CREDIT OF PROTECTIVE ORDER FROM ANOTHER JURISDICTION. (a) Except as provided by Subsection

(b), a protective order from another jurisdiction shall be accorded full faith and credit by the courts of this state and enforced as if the order was rendered by a court in this state.

(b) A protective order from another jurisdiction rendered against both the applicant and respondent is not enforceable against the applicant in this state unless:

(1) the respondent filed a cross or counter petition, complaint, or other written pleading seeking a protective order against the applicant; and

(2) the issuing court determined that each party was entitled to a protective order.

Sec. 88.002. PRESUMPTION OF VALIDITY. A protective order from another jurisdiction is presumed to be valid if the order appears authentic on the order's face.

Sec. 88.003. AFFIRMATIVE DEFENSE. It is an affirmative defense in any action seeking enforcement of a protective order rendered in another jurisdiction that the respondent was not given reasonable notice and an opportunity to be heard consistent with due process either:

(1) before the date the order was rendered; or

(2) in the case of an ex parte order, within the time required by the jurisdiction rendering the order after the date the order was rendered, but not later than a reasonable time.

Sec. 88.004. ENFORCEMENT OF AN ORDER. A protective order from another jurisdiction may be enforced even if the order is not entered into the state law enforcement information system maintained by the Department of Public Safety.

SECTION _____. Subsections (a) and (g), Section 25.07, Penal Code, as amended by Chapters 658 and 1024, Acts of the 74th Legislature, 1995, are amended to read as follows:

(a) A person commits an offense if, in violation of an order issued under Section 3.581[~~71.11~~,] or Chapter 85 [71.12], Family Code, [~~or~~] under Article 17.292, Code of Criminal Procedure, or by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(1) commits family violence or an act in furtherance of an offense under Section 42.07(a)(7);

(2) communicates:

(A) directly with a protected individual or a member of the family or household in a threatening or harassing manner;

(B) a threat through any person to a protected individual or a member of the family or household; and

(C) in any manner with the protected individual or a member of the family or household except through the person's attorney or a person appointed by the court, if the order prohibits any communication with a protected individual or a member of the family or household;

(3) goes to or near any of the following places as specifically described in the order:

(A) the residence or place of employment or business of a protected individual or a member of the family or household; or

(B) any child care facility, residence, or school where a child protected by the order normally resides or attends.

(4) engages in conduct directed specifically toward a person who is a member of the family or household, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass that person.

(g) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the defendant has previously been convicted under this section two or more times or has violated the protective order by committing an assault or the offense of stalking, in which event the offense is a third degree felony [~~state jail felony~~].

SECTION _____. Subsection (a), Article 5.04, Code of Criminal Procedure, is amended to read as follows:

(a) The primary duties of a peace officer who investigates a family violence allegation or who responds to a disturbance call that may involve family violence are to protect any potential victim of family violence, enforce the law of this state, enforce a protective order from another jurisdiction as provided by Chapter 88, Family Code, and make lawful arrests of violators.

SECTION _____. (a) The changes in law made by this Act to Sections 25.07(a) and (g), Penal Code, apply only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

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

Amendment No. 1 was adopted without objection.

SB 1253, as amended, was passed.

SB 542 ON THIRD READING
(Naishtat - House Sponsor)

SB 542, A bill to be entitled An Act relating to the prosecution of the offense of sexual assault.

SB 542 was passed. (Keel recorded voting yes)

SB 185 ON THIRD READING
(Dunnam, Allen, McClendon, and Danburg - House Sponsors)

SB 185, A bill to be entitled An Act relating to the prosecution of certain sexual assaults committed against children.

SB 185 was passed.

SB 1876 ON THIRD READING
(Chisum - House Sponsor)

SB 1876, A bill to be entitled An Act relating to the consolidation of the enforcement and emergency powers of the Texas Natural Resource Conservation Commission; providing criminal, civil, and administrative penalties.

SB 1876 was passed.

SB 656 ON THIRD READING
(Torres - House Sponsor)

SB 656, A bill to be entitled An Act relating to the term of a school district depository contract.

A record vote was requested.

SB 656 was passed by (Record 578): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; 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; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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.; Uher; Van de Putte; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Flores; Hupp.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Garcia; Hochberg; Turner, S.

SB 756 ON THIRD READING
(Shields - House Sponsor)

SB 756, A bill to be entitled An Act relating to certain juror donations used to compensate victims of crime.

SB 756 was passed.

SB 897 ON THIRD READING
(Alvarado and Greenberg - House Sponsors)

SB 897, A bill to be entitled An Act relating to facilitating the organization and availability of government information.

SB 897 was passed.

SB 1114 ON THIRD READING
(Coleman - House Sponsor)

SB 1114, A bill to be entitled An Act relating to the establishment of a "wheels for work" pilot program to assist certain recipients of AFDC.

SB 1114 was passed. (Heflin recorded voting no)

SB 1232 ON THIRD READING
(McClendon - House Sponsor)

SB 1232, A bill to be entitled An Act relating to conditions for probation and release under supervision for a child adjudicated for engaging in certain delinquent conduct and to certain instruction and treatment for the parent or guardian of the child.

SB 1232 was passed.

SB 1674 ON THIRD READING
(Keel, Greenberg, Hunter, and Naishtat - House Sponsors)

SB 1674, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of library districts; authorizing a tax and providing a penalty.

Amendment No. 1

Representative Madden offered the following amendment to **SB 1674**:

Amend **SB 1674**, on third reading, in SECTION 1 of the bill, in proposed Section 326.022, Local Government Code, by inserting the following:

(d) After a district is created, the district may not be expanded to include additional territory unless the commissioners court of the county in which the district is located calls and holds an election for the purpose in the territory to be added to the district. The commissioners court may not expand the district unless a majority of the voters voting at the expansion election approve the expansion of the district.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives Cuellar and Hunter offered the following amendment to **SB 1674**:

Amend **SB 1674**, on third reading, in SECTION 1 of the bill, in proposed Section 326.004(a), Local Government Code, by striking "in a county with a population of more than 150,000" and substituting "in a county with a population of more than 100,000"

Amendment No. 2 was adopted without objection.

SB 1674, as amended, was passed. (Heflin recorded voting no)

SB 844 ON THIRD READING
(Oliveira - House Sponsor)

SB 844, A bill to be entitled An Act relating to the provision of water and sewer service in certain economically distressed areas.

SB 844 was passed. (Heflin recorded voting no)

SB 1176 ON THIRD READING
(Hawley - House Sponsor)

SB 1176, A bill to be entitled An Act relating to the validity of certain devises or bequests.

SB 1176 was passed.

SB 1440 ON THIRD READING
(Holzheuser - House Sponsor)

SB 1440, A bill to be entitled An Act relating to tax exemptions on, and the use of certain revenues from taxes on, oil and gas production.

SB 1440 was passed. (Finnell recorded voting present, not voting)

SB 1438 ON THIRD READING
(Counts and Hilderbran - House Sponsors)

SB 1438, A bill to be entitled An Act relating to a late application by a veteran's organization for an exemption from ad valorem taxation.

SB 1438 was passed.

SB 1190 ON THIRD READING
(Kubiak - House Sponsor)

SB 1190, A bill to be entitled An Act relating to contracts and communications involving certain athletes and athlete agents.

SB 1190 was passed. (Heflin recorded voting no)

SB 1395 ON THIRD READING
(Stiles - House Sponsor)

SB 1395, A bill to be entitled An Act relating to the preparation of a county budget in certain counties.

A record vote was requested.

SB 1395 was passed by (Record 579): 136 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; Giddings; Glaze; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nay — Goodman.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Flores; Hupp.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Garcia; Hill; Wilson.

SB 1161 ON THIRD READING
(Hill - House Sponsor)

SB 1161, A bill to be entitled An Act relating to the authority of certain counties to contract with private entities for child support and visitation enforcement services.

Amendment No. 1

Representative Goodman offered the following amendment to **SB 1161**:

Amend **SB 1161** as follows:

(1) On page 2, after line 10, by deleting existing subsection (7) and inserting a new subsection (7) to read as follows:

"(7) provide another child support enforcement service authorized by the commissioners court."

(2) On page 3, after line 10, by deleting existing subsections (6), (7) and (8).

(3) On page 4, after line 10, by deleting the existing subsection (2) and inserting a new subsection (2) to read as follows:

"(2) provide by order for the assessment and collection of a reasonable fee at a time specified for payment of child support;"

(4) On page 4, after line 13, by deleting the existing subsection (3) and inserting a new subsection (3) to read as follows:

"(3) provide by order for the assessment and collection of a reasonable late payment fee to be imposed if an obligor does make a payment of child support in full when due;"

Amendment No. 1 was adopted without objection. (Heflin recorded voting no) (The vote was reconsidered later today, and Amendment No. 1 was withdrawn.)

SB 1161, as amended, was passed. (The vote was reconsidered later today, and **SB 1161** was passed.)

SB 1425 ON THIRD READING
(Horn - House Sponsor)

SB 1425, A bill to be entitled An Act relating to confirmation elections for and costs relating to the establishment of certain county development districts.

Amendment No. 1

Representative Madden offered the following amendment to **SB 1425**:

Amend **SB 1425**, on third reading, as follows:

(1) Strike SECTION 3 of the bill and substitute the following:

SECTION 3. The changes in law made by this Act to Subsection (a), Section 312.610, Tax Code, and the changes in law made by Subsection (d), Section 312.617, Tax Code, as added by this Act, apply only to a county development district created on or after the effective date of this Act. A county development district created before the effective date of this Act is governed

by the law applicable to the district immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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

SECTION _____. Section 312.638, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) If the commissioners court makes a finding to add land to the district, the commissioners court shall call and hold an election for that purpose in the territory to be added to the district. The commissioners court shall order the expansion of the district only if a majority of the voters voting in the election approve the expansion of the district.

Amendment No. 1 was adopted without objection.

SB 1425, as amended, was passed.

HR 1182 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1182**, suspending the limitations on the conferees for **HB 768**.

SB 1539 ON THIRD READING (Swinford and Greenberg - House Sponsors)

SB 1539, A bill to be entitled An Act relating to the regulation of certain facilities, homes, and agencies that provide child care and of child-care administrators; providing penalties.

Amendment No. 1

Representative Swinford offered the following amendment to **SB 1539**:

Amend **SB 1539** on third reading by striking the text of second reading Amendment No. 2.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Swinford offered the following amendment to **SB 1539**:

Amend **SB 1539**, in SECTION 7 of the bill, in amended Section 42.072, Human Resources Code (Committee printing, page 32, after line 25), by inserting the following:

(e) A person may continue to operate a facility or family home during an appeal of a license or registration denial or revocation unless the revocation or denial is based on a violation which poses a risk to the health or safety of children. The department shall by rule establish the violations which pose a risk to the health or safety of children. The department shall notify the facility or family home of the violation which poses a risk to health or safety and that the facility or family home may not operate. A person who has been notified by the department that the facility or home may not operate under this section may seek injunctive relief from a district court in Travis County or in the county in which the facility or home is located, to allow operation during the

pendency of an appeal. The court may grant injunctive relief against the agency's action only if the court finds that the child-care operation does not pose a health or safety risk to children. A court granting injunctive relief under this subsection shall have no other jurisdiction over an appeal of final agency action unless conferred by Government Code Chapter 2001.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Swinford offered the following amendment to **SB 1539**:

Amend **SB 1539** on third reading as follows:

(1) In SECTION 7 of the bill (House Committee Report, page 12, line 19), strike "(1) family homes;" and substitute the following:

(1) registered family homes;

(2) In SECTION 7 of the bill (House Committee Report, page 22, lines 16-18), strike the words "The operator of a registered home must display the registration in a prominent place at the home." and insert the following:

"The operator of a registered home is not required to display the registration in a prominent place but shall make the listing available for examination."

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Swinford offered the following amendment to **SB 1539**:

Amend **SB 1539**, on third reading, in SECTION 7 of the bill, by striking amended Subsection (d), Section 42.073, Human Resources Code (House Committee Report, page 33, lines 19-22), and substituting the following:

~~[(d) The suspension of a license and the closure of the facility and the appeal from that action are governed by the procedures for a contested case hearing under Chapter 2001, Government Code.]~~

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Greenberg offered the following amendment to **SB 1539**:

Amend **SB 1539**, on third reading, as follows:

(1) In SECTION 7 of the bill, in amended Subsection (b)(10), Section 42.041, Human Resources Code (House Committee Report, page 8, line 15), between "registered" and "as", insert "or listed".

(2) In SECTION 7 of the bill, in amended Subsection (b), Section 42.044, Human Resources Code (House Committee Report, page 16, line 8), immediately following the first sentence, insert "The department shall investigate a listed family home when the department receives a complaint of abuse or neglect of a child, as defined by Section 261.001, Family Code.".

(3) In SECTION 7 of the bill, in the amended heading of Section 42.046, Human Resources Code (House Committee Report, page 17, line 16), between "LICENSE" AND "OR", insert "LISTING".

(4) In SECTION 7 of the bill, in amended Subsection (a), Section 42.046,

Human Resources Code (House Committee Report, page 17, line 18), between "for a" and "registration", insert "listing or".

(5) In SECTION 7 of the bill, in amended Subsection (b), Section 42.046, Human Resources Code (House Committee Report, Page 17, line 24), between "standards" and the period, insert ", if applicable".

(6) In SECTION 7 of the bill, in amended Subsection (c), Section 42.046, Human Resources Code (House Committee Report, page 18, line 2), between "children" and the period, insert ", if applicable".

(7) In SECTION 7 of the bill, in amended Subsection (a), Section 42.047, Human Resources Code (House Committee Report, page 18, line 9), immediately before "registration", insert "listing".

(8) In SECTION 7 of the bill, in amended Subsection (a), Section 42.047, Human Resources Code (House Committee Report, page 18, line 10), between "licensing" and "registration", insert "listing".

(9) In SECTION 7 of the bill, in amended Subsection (e), Section 42.049, Human Resources Code (House Committee Report, page 20, line 25), strike "or registered family home" and substitute "or a listed or registered family home".

(10) In SECTION 7 of the bill, strike amended Section 42.052, Human Resources Code (House Committee Report, page 21, line 25, through page 23, line 12), and substitute the following:

Sec. 42.052. CERTIFICATION, LISTING, AND REGISTRATION. (a) A state operated child-care facility or child-placing agency must receive certification of approval from the department [~~division~~]. The certification of approval remains valid until revoked or surrendered.

(b) To be certified, a facility must comply with the department's rules and standards and any provisions of this chapter that apply to a licensed facility of the same category. The operator of a certified facility must display the certification in a prominent place at the facility.

(c) A family home that provides care for compensation for three or fewer children, excluding [~~the caretaker's own~~] children who are related to the caretaker, shall list with the department if the home provides regular care in the caretaker's own residence. The home may register with the department [~~division~~].

(d) A family home that provides care for four or more children, excluding [~~the caretaker's own~~] children who are related to the caretaker, shall [~~, must~~] register with the department [~~division~~]. A family home that provides care exclusively for any number of children who are related to the caretaker is not required to be listed or registered with the department.

(e) A registration or listing remains valid until revoked or surrendered. The operator of a registered home must display the registration in a prominent place at the home.

(f) [~~(d)~~] To remain listed or registered with the department [~~division~~], a family home must comply with the department's rules and standards, if applicable, and any provision of this chapter that applies to a listed or registered family home.

(g) [~~(e)~~] The certification requirements of this section do not apply to a Texas Youth Commission [~~Council~~] facility, a Texas Juvenile Probation Commission facility, or a facility providing services solely for the Texas Youth Commission [~~Council~~].

~~[(f) A family home may not place a public advertisement that uses the title "registered family home" or any variation of the phrase unless the home is registered with the division under this chapter. Any public advertisement for a registered family home which uses the title "registered family home" must contain a provision in bold type stating: "THIS HOME IS REGISTERED WITH THE DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES BUT IS NOT LICENSED OR INSPECTED."]~~

~~(h) [(g)]~~ The certification requirements of this section do not apply to a juvenile detention facility certified under Section 51.12, Family Code, or Section 141.042(d).

~~(i) The department shall provide to a listed family home a copy of the listing. A listing must contain a provision that states: "THIS HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGISTERED WITH THE DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES. IT HAS NOT BEEN INSPECTED AND WILL NOT BE INSPECTED." The operator of a listed home is not required to display the listing in a prominent place at the home but shall make the listing available for examination. The department by rule shall provide for a sufficient period to allow operators of family homes to comply with the listing requirement of this section.~~

~~(j) The operator of a listed family home shall undergo initial and subsequent background and criminal history checks required under Section 42.056.~~

~~(k) The department shall issue a listing or registration to a family home, as appropriate, in both English and Spanish when the most recent federal census shows that more than one-half of the population in a municipality or in a commissioners precinct in a county in which the family home is located is of Hispanic origin or Spanish-speaking.~~

(11) In SECTION 7 of the bill, in amended Section 42.054, Human Resources Code (House Committee Report, page 26, lines 8-16), strike Subsections (e) and (f) and substitute the following:

(e) The ~~department~~ ~~[division]~~ shall charge each family home that is listed or registered with the department ~~[division]~~ an annual ~~[registration]~~ fee ~~[of \$35]~~ to cover a part of the department's cost in regulating family homes. The amount of the fee is \$20 for a listed home or \$35 for a registered home. The fee is due on the date on which the ~~department initially lists or~~ ~~[division]~~ registers the home and on the anniversary of that date.

(f) If a facility, agency, or home fails to pay the annual ~~[license or registration]~~ fee when due, the license, listing, or registration, as appropriate, is suspended until the fee is paid.

(12) In SECTION 7 of the bill, in proposed Subsection (a), Section 42.056, Human Resources Code (House Committee Report, page 28, line 10), immediately before "registering", insert "listing or".

(13) In SECTION 7 of the bill, in proposed Subsection (a), Section 42.056, Human Resources Code (House Committee Report, page 28, line 11), between "license," and "registration,", insert "listing,".

(14) In SECTION 7 of the bill, in proposed Subsection (c), Section 42.056, Human Resources Code (House Committee Report, page 29, line 5), between "or" and "family", insert "registered".

(15) In SECTION 7 of the bill, in the heading of amended Section 42.072, Human Resources Code (House Committee Report, page 30, line 22), between "LICENSE" and "OR", insert "LISTING".

(16) In SECTION 7 of the bill, strike amended Subsection (a), Section 42.072, Human Resources Code (House Committee Report, page 30, lines 23-25 through page 31, lines 1-5), and substitute the following:

(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.

(17) In SECTION 7 of the bill, in amended Subsection (c), Section 42.072, Human Resources Code (House Committee Report, page 32, lines 16 and 17,) immediately before "registration" each time the term appears in the subsection, insert "listing".

(18) In SECTION 7 of the bill, in proposed Subsection (d), Section 42.072, Human Resources Code (House Committee Report, page 32, line 22), between "or for" and "registering", insert "listing or".

(19) In SECTION 7 of the bill, in proposed Subsection (d), Section 42.072, Human Resources Code (House Committee Report, page 32, line 24), immediately before "registration", insert "listing or".

(20) In SECTION 7 of the bill, in proposed Subsection (e), Section 42.072, Human Resources Code, as added by Floor Amendment No. 2 (Swinford), in the first sentence, between "license" and "or registration", insert "listing".

(21) In SECTION 7 of the bill, in amended Section 42.072, Human Resources Code (House Committee Report, page 32, after line 25), insert the following:

(f) The department shall deny an application or renewal for listing or registering a family home or shall revoke a family home's listing or registration if the results of a background or criminal history check conducted by the department under Section 42.056 show that a person has been convicted of an offense under Title 5 or 6, Penal Code, or Chapter 43, Penal Code.

(22) In SECTION 7 of the bill, in amended Subsection (a), Section 42.073, Human Resources Code (House Committee Report, page 33, line 3), between "home's" and "registration", insert "listing or".

(23) In SECTION 7 of the bill, in amended Subsection (b), Section 42.073, Human Resources Code (House Committee Report, page 33, line 12), between "license" and "or", insert "listing".

(24) In SECTION 7 of the bill, in amended Subsection (b), Section 42.073, Human Resources Code (House Committee Report, page 33, line 15), between "license" and "or", insert "listing".

(25) In SECTION 7 of the bill, in amended Subsection (d), Section 42.073, Human Resources Code (House Committee Report, page 33, line 19), between "license" and "or", insert "listing".

(26) In SECTION 7 of the bill, in amended Subsection (a), Section 42.074, Human Resources Code (House Committee Report, page 33, line 25, and page

34, line 1), immediately following "certification," each time the term appears in the subsection, insert "listing."

(27) In SECTION 7 of the bill, in amended Subsection (a)(3), Section 42.075, Human Resources Code (House Committee Report, page 35, line 9), between "or" and "unregistered", insert "an unlisted or".

(28) In SECTION 7 of the bill, in amended Subsection (b), Section 42.076, Human Resources Code (House Committee Report, page 35, line 17), immediately before "registration", insert "required listing or".

(29) In SECTION 7 of the bill, in amended Subsection (c), Section 42.076, Human Resources Code (House Committee Report, page 35, line 19), between "an" and "unregistered", insert "unlisted or".

(30) In SECTION 7 of the bill, in amended Subsection (a), Section 42.077, Human Resources Code (House Committee Report, page 36, line 9), between "home's" and "registration", insert "listing or".

(31) In SECTION 7 of the bill, in amended Subsection (b), Section 42.077, Human Resources Code (House Committee Report, page 36, lines 15 and 16), immediately following "license" each time the term appears in the subsection, insert ", listing".

(32) In SECTION 7 of the bill, in amended Subsection (c), Section 42.077, Human Resources Code (House Committee Report, page 36, line 23), strike "registering" and substitute "listing, registering".

(33) In SECTION 7 of the bill, in amended Subsection (d), Section 42.077, Human Resources Code (House Committee Report, page 37, line 2), between "license" and "or", insert ", listing".

(34) In SECTION 7 of the bill, in amended Subsection (d), Section 42.077, Human Resources Code (House Committee Report, page 37, line 7), between "license" and "or", insert ", listing".

(35) In SECTION 7 of the bill, in amended Section 42.077, Human Resources Code (House Committee Report, page 37, between lines 8 and 9), insert the following:

(e) When the most recent federal census shows that more than one-half of the population in a municipality or in a commissioners precinct in a county in which a family home whose listing or registration has been revoked or suspended is located is of Hispanic origin or Spanish-speaking, the department shall publish the notice under Subsection (a) in both English and Spanish.

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

SECTION _____. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.0522 to read as follows:

Sec. 42.0522. PUBLIC ADVERTISING OF FAMILY HOMES. (a) A family home may not place a public advertisement that uses the the title "registered family home" or any variation of the phrase unless the home is registered under this chapter. Any public advertisement for a registered family home that uses the title "registered family home" must contain a provision in bold type stating: "THIS HOME IS REGISTERED WITH THE DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES BUT IS NOT LICENSED OR REGULARLY INSPECTED."

(b) A family home may not place a public advertisement that uses the title

"listed family home" or any variation of the phrase unless the home is listed as provided by this chapter. Any public advertisement for a listed family home that uses the title "listed family home" must contain a provision in bold type stating: "THIS HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGISTERED WITH THE DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES. IT HAS NOT BEEN INSPECTED AND WILL NOT BE INSPECTED."

Amendment No. 5 was adopted without objection.

(Naishtat in the chair)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Stiles requested permission for the Committee on Calendars to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 4:45 p.m. today, speakers committee room, to consider the calendar.

SB 1539 - (consideration continued)

Representative Swinford moved to postpone consideration of **SB 1539** until 4:30 p.m. today.

The motion prevailed without objection.

SB 121 ON THIRD READING (Swinford - House Sponsor)

SB 121, A bill to be entitled An Act relating to the use of closed circuit video teleconferencing to enter a plea or waive a right in a criminal case.

A record vote was requested.

SB 121 was passed by (Record 580): 135 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; 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; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Price; Rabuck; 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; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Delisi; Flores; Hupp.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Garcia; Place; Ramsay; Smithee.

(Speaker in the chair)

POSTPONED BUSINESS

The following bill was laid before the house as postponed business:

SB 1539 ON THIRD READING (Swinford and Greenberg - House Sponsors)

SB 1539, A bill to be entitled An Act relating to the regulation of certain facilities, homes, and agencies that provide child care and of child-care administrators; providing penalties.

SB 1539 was read third time earlier today and was postponed until 4:30 p.m. today.

Amendment No. 6

Representative Dukes offered the following amendment to **SB 1539**:

Amend **SB 1539** on third reading by adding appropriately numbered SECTIONS to the bill, to read as follows, and renumbering the existing SECTIONS of the bill accordingly:

SECTION _____. Section 481.134(a)(5), Health and Safety Code, is amended to read as follows:

(5) "School" means a private or public elementary or secondary school or a day-care center, as defined by Section 42.002, Human Resources Code.

SECTION _____. Section 46.11(c), Penal Code, is amended to read as follows:

(c) In this section:

(1) "Institution [~~-"institution~~]" of higher education[;]" and "premises[;]" [~~and "school"~~] have the meanings assigned by Section 481.134, Health and Safety Code.

(2) "School" means a private or public elementary or secondary school.

Amendment No. 6 was adopted without objection.

SB 1539, as amended, was passed. (Heflin recorded voting no)

SB 30 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Maxey, the house granted the request of the senate for the appointment of a conference committee on **SB 30**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 30**: Maxey, chair, Alvarado, Coleman, Corte, and Cuellar.

**SB 35 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Patterson, the house granted the request of the senate for the appointment of a conference committee on **SB 35**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 35**: Place, chair, Galloway, Hinojosa, Keel, and Talton.

**SB 343 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Averitt, the house granted the request of the senate for the appointment of a conference committee on **SB 343**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 343**: Brimer, chair, Finnell, Hawley, Palmer, and Siebert.

**SB 359 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Gray, the house granted the request of the senate for the appointment of a conference committee on **SB 359**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 359**: Gray, chair, Coleman, Goodman, Greenberg, and McReynolds.

**SB 371 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Telford, the house granted the request of the senate for the appointment of a conference committee on **SB 371**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 371**: Telford, chair, Garcia, Gray, Hill, and Swinford.

**SB 987 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Price, the house granted the request of the senate for the appointment of a conference committee on **SB 987**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 987**: Gallego, chair, Hernandez, Mowery, Price, and West.

**SB 1311 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Cuellar, the house granted the request of the senate for the appointment of a conference committee on **SB 1311**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 1311**: Cuellar, chair, Kamel, Rabuck, Rangel, and Solis.

**SB 841 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative McCall, the house granted the request of the senate for the appointment of a conference committee on **SB 841**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 841**: Hilbert, chair, Chisum, Hernandez, Williamson, and Wilson.

HB 39 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McCall submitted the following conference committee report on **HB 39**:

Austin, Texas, May 23, 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 39** 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.

Zaffirini	McCall
Shapiro	Van de Putte
Sibley	Gray
Moncrief	Janek
Shapleigh	Roman
On the part of the Senate	On the part of the House

HB 39, A bill to be entitled An Act relating to a prohibition of discrimination in the determination of eligibility for employment, occupational licenses, and coverage under certain health benefit plans based on the use of certain genetic tests and to limitations on the use of information derived from those tests; providing an administrative penalty.

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

SECTION 1. Chapter 21, Labor Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. DISCRIMINATORY USE OF GENETIC INFORMATION

Sec. 21.401. DEFINITIONS. In this subchapter:

- (1) "DNA" means deoxyribonucleic acid.
- (2) "Genetic information" means information derived from the results of a genetic test.
- (3) "Genetic test" means a laboratory test of an individual's DNA, RNA, proteins, or chromosomes to identify by analysis of the DNA, RNA,

proteins, or chromosomes the genetic mutations or alterations in the DNA, RNA, proteins, or chromosomes that are associated with a predisposition for a clinically recognized disease or disorder. The term does not include:

(A) a routine physical examination or a routine test performed as a part of a physical examination;

(B) a chemical, blood, or urine analysis;

(C) a test to determine drug use; or

(D) a test for the presence of the human immunodeficiency virus.

(4) "RNA" means ribonucleic acid.

Sec. 21.402. DISCRIMINATORY USE OF GENETIC INFORMATION PROHIBITED. (a) An employer commits an unlawful employment practice if the employer fails or refuses to hire, discharges, or otherwise discriminates against an individual with respect to compensation or the terms, conditions, or privileges of employment:

(1) on the basis of genetic information concerning the individual; or

(2) because of the refusal of the individual to submit to a genetic test.

(b) A labor organization commits an unlawful employment practice if the labor organization excludes or expels from membership or otherwise discriminates against an individual:

(1) on the basis of genetic information concerning the individual; or

(2) because of the refusal of the individual to submit to a genetic test.

(c) An employment agency commits an unlawful employment practice if the employment agency classifies or refers for employment, fails or refuses to refer for employment, or otherwise discriminates against an individual:

(1) on the basis of genetic information concerning the individual; or

(2) because of the refusal of the individual to submit to a genetic test.

(d) An employer, labor organization, or employment agency commits an unlawful employment practice if the employer, labor organization, or employment agency limits, segregates, or classifies an employee, member, or applicant for employment or membership in a way that would deprive or tend to deprive the employee, member, or applicant of employment opportunities or otherwise adversely affect the status of the employee, member, or applicant:

(1) on the basis of genetic information concerning the employee, member, or applicant; or

(2) because of the refusal of the employee, member, or applicant to submit to a genetic test.

Sec. 21.403. INFORMATION CONFIDENTIAL; EXCEPTIONS. (a) Except as provided by Subsections (c) and (d), genetic information is confidential and privileged regardless of the source of the information. A person who holds that information may not disclose or be compelled to disclose, by subpoena or otherwise, genetic information about an individual unless the disclosure is specifically authorized by the individual as provided by Subsection (b). This subsection applies to a redisclosure of genetic information by a secondary recipient of the information after disclosure of the information by an initial recipient.

(b) An individual or the legal representative of an individual may authorize the disclosure of genetic information relating to that individual through a written authorization that includes:

- (1) a description of the information to be disclosed;
- (2) the name of the person to whom the disclosure is made; and
- (3) the purpose for the disclosure.

(c) Subject to Subchapter G, Chapter 411, Government Code, genetic information relating to an individual may be disclosed without the authorization required under Subsection (b) if the disclosure is:

- (1) authorized under a state or federal criminal law relating to:
 - (A) the identification of individuals; or
 - (B) a criminal or juvenile proceeding, an inquest, or a child fatality review by a multidisciplinary child-abuse team;
- (2) required under a specific order of a state or federal court;
- (3) authorized under a state or federal law to establish paternity;
- (4) made to furnish genetic information relating to a decedent to the blood relatives of the decedent for the purpose of medical diagnosis; or
- (5) made to identify a decedent.

(d) In addition to the exceptions under Subsection (c), genetic information relating to an individual may be disclosed without the authorization required under Subsection (b) if:

- (1) the disclosure is for information from a research study in which the procedure for obtaining informed written consent and use of the information is governed by national standards for protecting participants involved in research projects, including guidelines issued under 21 C.F.R. Part 50 and 45 C.F.R. Part 46;
- (2) the information does not identify a particular individual; and
- (3) the information is provided by the Texas Department of Health to comply with Chapter 87, Health and Safety Code.

Sec. 21.404. RIGHT TO KNOW TEST RESULTS. An individual who submits to a genetic test has the right to know the results of that test. On the written request of the individual, the entity that performed the test shall disclose the test results to the individual or to a physician designated by the individual.

Sec. 21.405. RETENTION OF SAMPLE. A sample of genetic material taken for a genetic test from an individual shall be destroyed promptly after the purpose for which the sample was obtained is accomplished unless:

- (1) the sample is retained under a court order;
- (2) the individual tested authorizes retention of the sample for purposes of medical treatment or scientific research;
- (3) for a sample obtained for research that is cleared by an institutional review board, the sample is retained under the requirements that the institutional review board imposes on a specific research project or as authorized by the research participant with institutional review board approval under federal law;
or

(4) the sample was obtained for a screening test established by the Texas Department of Health and performed by that department or by a laboratory approved by that department under Section 33.011, Health and Safety Code.

SECTION 2. Chapter 20, Title 132, Revised Statutes, is amended by adding Article 9031 to read as follows:

Art. 9031. PROHIBITED USE OF GENETIC INFORMATIONSec. 1. DEFINITIONS. In this article:

(1) "DNA" means deoxyribonucleic acid.

(2) "Genetic information" means information derived from the results of a genetic test.

(3) "Genetic test" means a laboratory test of an individual's DNA, RNA, proteins, or chromosomes to identify by analysis of the DNA, RNA, proteins, or chromosomes the genetic mutations or alterations in the DNA, RNA, proteins, or chromosomes that are associated with a predisposition for a clinically recognized disease or disorder. The term does not include:

(A) a routine physical examination or a routine test performed as a part of a physical examination;

(B) a chemical, blood, or urine analysis;

(C) a test to determine drug use; or

(D) a test for the presence of the human immunodeficiency virus.

(4) "Licensing authority" means a state agency or political subdivision that issues an occupational license.

(5) "Occupational license" means a license, certificate, registration, permit, or other form of authorization required by law or rule that must be obtained by an individual to engage in a particular business or occupation.

(6) "Political subdivision" means a municipality, county, or special district or authority. The term includes a school district.

(7) "RNA" means ribonucleic acid.

(8) "State agency" means a department, board, bureau, commission, committee, division, office, council, or agency in the executive or judicial branch of state government.

Sec. 2. GENETIC TESTING REQUIREMENT PROHIBITED. A licensing authority may not deny an application for an occupational license, suspend, revoke, or refuse to renew an occupational license, or take any other disciplinary action against a license holder based on the refusal of the license applicant or license holder to:

(1) submit to a genetic test; or

(2) reveal:

(A) whether the applicant or holder has submitted to a genetic test; or

(B) the results of any genetic test to which the applicant or holder has submitted.

Sec. 3. INFORMATION CONFIDENTIAL; EXCEPTIONS. (a) Except as provided by Subsections (c) and (d) of this section, genetic information is confidential and privileged regardless of the source of the information. A person or entity that holds that information may not disclose or be compelled to disclose, by subpoena or otherwise, genetic information about an individual unless the disclosure is specifically authorized by the individual as provided by Subsection (b) of this section. This subsection applies to a redisclosure of genetic information by a secondary recipient of the information after disclosure of the information by an initial recipient.

(b) An individual or the legal representative of an individual may authorize

the disclosure of genetic information relating to that individual through a written authorization that includes:

- (1) a description of the information to be disclosed;
- (2) the name of the person or entity to whom the disclosure is made;

and

- (3) the purpose for the disclosure.

(c) Subject to Subchapter G, Chapter 411, Government Code, genetic information relating to an individual may be disclosed without the authorization required under Subsection (b) of this section if the disclosure is:

- (1) authorized under a state or federal criminal law relating to:

(A) the identification of individuals; or

(B) a criminal or juvenile proceeding, an inquest, or a child fatality review by a multidisciplinary child-abuse team;

- (2) required under a specific order of a state or federal court;

(3) authorized under a state or federal law to establish paternity;

(4) made to furnish genetic information relating to a decedent to the blood relatives of the decedent for the purpose of medical diagnosis; or

- (5) made to identify a decedent.

(d) In addition to the exceptions under Subsection (c), genetic information relating to an individual may be disclosed without the authorization required under Subsection (b) if:

(1) the disclosure is for information from a research study in which the procedure for obtaining informed written consent and use of the information is governed by national standards for protecting participants involved in research projects, including guidelines issued under 21 C.F.R. Part 50 and 45 C.F.R. Part 46;

(2) the information does not identify a particular individual; and

(3) the information is provided by the Texas Department of Health to comply with Chapter 87, Health and Safety Code.

Sec. 4. RIGHT TO KNOW TEST RESULTS. An individual who submits to a genetic test has the right to know the results of that test. On the written request of the individual, the entity that performed the test shall disclose the test results to the individual or to a physician designated by the individual.

Sec. 5. RETENTION OF SAMPLE. A sample of genetic material taken for a genetic test from an individual shall be destroyed promptly after the purpose for which the sample was obtained is accomplished unless:

(1) the sample is retained under a court order;

(2) the individual tested authorizes retention of the sample for purposes of medical treatment or scientific research;

(3) for a sample obtained for research that is cleared by an institutional review board, the sample is retained under the requirements that the institutional review board imposes on a specific research project or as authorized by the research participant with institutional review board approval under federal law; or

(4) the sample was obtained for a screening test established by the Texas Department of Health and performed by that department or by a laboratory approved by that department under Section 33.011, Health and Safety Code.

SECTION 3. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.73 to read as follows:

Art. 21.73. USE OF GENETIC TESTING INFORMATION BY INSURERS

Sec. 1. DEFINITIONS. In this article:

(1) "DNA" means deoxyribonucleic acid.

(2) "Genetic information" means information derived from the results of a genetic test.

(3) "Genetic test" means a laboratory test of an individual's DNA, RNA, proteins, or chromosomes to identify by analysis of the DNA, RNA, proteins, or chromosomes the genetic mutations or alterations in the DNA, RNA, proteins, or chromosomes that are associated with a predisposition for a clinically recognized disease or disorder. The term does not include:

(A) a routine physical examination or a routine test performed as a part of a physical examination;

(B) a chemical, blood, or urine analysis;

(C) a test to determine drug use; or

(D) a test for the presence of the human immunodeficiency virus.

(4) "Group health benefit plan" means a plan described by Section 2 of this article.

(5) "RNA" means ribonucleic acid.

Sec. 2. SCOPE OF ARTICLE. (a) This article applies to a group health benefit plan that:

(1) provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including:

(A) a group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or a group evidence of coverage that is offered by:

(i) an insurance company;

(ii) a group hospital service corporation operating under Chapter 20 of this code;

(iii) a fraternal benefit society operating under Chapter 10 of this code;

(iv) a stipulated premium insurance company operating under Chapter 22 of this code; or

(v) a health maintenance organization operating under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code); or

(B) to the extent permitted by the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), a group health benefit plan that is offered by:

(i) a multiple employer welfare arrangement as defined by Section 3, Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1002);

(ii) any other entity not licensed under this code or another insurance law of this state that contracts directly for health care services on a risk-sharing basis, including an entity that contracts for health care services on a capitation basis; or

(iii) another analogous benefit arrangement; or
 (2) is offered by an approved nonprofit health corporation that is certified under Section 5.01(a), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), and that holds a certificate of authority issued by the commissioner under Article 21.52F of this code.

(b) This article does not apply to:

(1) a plan that provides coverage:

(A) only for a specified disease;

(B) only for accidental death or dismemberment;

(C) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;
 or

(D) as a supplement to liability insurance;

(2) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

(3) workers' compensation insurance coverage;

(4) medical payment insurance issued as part of a motor vehicle insurance policy; or

(5) a long-term care policy, including a nursing home fixed indemnity policy, unless the commissioner determines that the policy provides benefit coverage so comprehensive that the policy is a group health benefit plan as described by Subsection (a) of this section.

Sec. 3. USE OF GENETIC INFORMATION BY GROUP HEALTH BENEFIT PLAN. (a) A group health benefit plan issuer may not use genetic information to reject, deny, limit, cancel, refuse to renew, increase the premiums for, or otherwise adversely affect eligibility for or coverage under the group health benefit plan.

(b) If a group health benefit plan issuer requests that an applicant for coverage under the plan submit to a genetic test in connection with the application for coverage for a purpose other than a purpose prohibited under Subsection (a) of this section, the issuer must:

(1) notify the applicant that the test is required;

(2) disclose to the applicant the proposed use of the test results; and

(3) obtain the applicant's written informed consent for the test before the administration of the test.

(c) In the consent form, the applicant shall state whether the applicant elects to be informed of the results of the test. If the applicant does so elect, the person or entity that performs the test shall disclose the results of the test to the applicant, as well as to the group health benefit plan issuer, and the group health benefit plan issuer shall ensure that:

(1) the applicant receives an interpretation of the test results made by a qualified health care practitioner; and

(2) a physician or other health care practitioner designated by the applicant receives a copy of the results of the test.

(d) A group health benefit plan issuer may not use the results of a genetic test conducted in accordance with Subsection (b) of this section as an inducement for the purchase of coverage under the plan.

(e) A group health benefit plan issuer may not use the refusal of an

applicant to submit to a genetic test to reject, deny, limit, cancel, refuse to renew, increase the premiums for, or otherwise adversely affect eligibility for or coverage under the group health benefit plan.

Sec. 4. INFORMATION CONFIDENTIAL; EXCEPTIONS. (a) Except as provided by Subsections (c) and (d) of this section, genetic information is confidential and privileged regardless of the source of the information. A person or entity that holds that information may not disclose or be compelled to disclose, by subpoena or otherwise, genetic information about an individual unless the disclosure is specifically authorized by the individual as provided by Subsection (b) of this section. This subsection applies to a redisclosure of genetic information by a secondary recipient of the information after disclosure of the information by an initial recipient.

(b) An individual or the legal representative of an individual may authorize the disclosure of genetic information relating to that individual through an authorization that:

- (1) is written in plain language;
- (2) is dated;
- (3) contains a specific description of the information to be disclosed;
- (4) identifies or describes each person authorized to disclose the genetic information to a group health benefit plan issuer;
- (5) identifies or describes the individuals or entities to whom the disclosure or subsequent redisclosure of the genetic information may be made;
- (6) describes the specific purpose of the disclosure;
- (7) is signed by the individual or the legal representative and, if the disclosure is for claiming proceeds of any affected life insurance policy, the claimant; and
- (8) advises the individual or legal representative that the individual's authorized representative is entitled to receive a copy of the authorization form.

(c) Subject to Subchapter G, Chapter 411, Government Code, genetic information relating to an individual may be disclosed without the authorization required under Subsection (b) of this section if the disclosure is:

- (1) authorized under a state or federal criminal law relating to:
 - (A) the identification of individuals; or
 - (B) a criminal or juvenile proceeding, an inquest, or a child fatality review by a multidisciplinary child-abuse team;
- (2) required under a specific order of a state or federal court;
- (3) authorized under a state or federal law to establish paternity;
- (4) made to furnish genetic information relating to a decedent to the blood relatives of the decedent for the purpose of medical diagnosis; or
- (5) made to identify a decedent.

(d) Except as provided by this subsection, a group health benefit plan issuer may not redisclose genetic information unless the redisclosure is consistent with the disclosures authorized by the tested individual under an authorization form executed under Subsection (b) of this section. A group health benefit plan issuer may redisclose genetic information:

- (1) for actuarial or research studies if:
 - (A) a tested individual may not be identified in any actuarial or research report; and

(B) any materials that identify a tested individual are returned or destroyed as soon as reasonably practicable;

(2) to the department for the purposes of the enforcement of this article; or

(3) for purposes directly related to enabling business decisions to be made about the purchase, transfer, merger, or sale of all or part of an insurance business or about obtaining reinsurance affecting that insurance business.

(e) A redisclosure authorized under Subsection (d) of this section may contain only information reasonably necessary to accomplish the purpose for which the information is disclosed.

Sec. 5. RIGHT TO KNOW TEST RESULTS. An individual who submits to a genetic test has the right to know the results of that test. On the written request of the individual, the group health benefit plan issuer or other entity that performed the test shall disclose the test results to the individual or to a physician designated by the individual. The right to information under this section is in addition to any right or requirement established under Section 3 of this article.

Sec. 6. RETENTION OF SAMPLE. A sample of genetic material taken for a genetic test from an individual shall be destroyed promptly after the purpose for which the sample was obtained is accomplished unless:

(1) the sample is retained under a court order;

(2) the individual tested authorizes retention of the sample for purposes of medical treatment or scientific research;

(3) for a sample obtained for research that is cleared by an institutional review board, the sample is retained under the requirements that the institutional review board imposes on a specific research project or as authorized by the research participant with institutional review board approval under federal law;
or

(4) the sample was obtained for a screening test established by the Texas Department of Health and performed by that department or by a laboratory approved by that department under Section 33.011, Health and Safety Code.

Sec. 7. CEASE AND DESIST ORDER; ADMINISTRATIVE PENALTY. (a) On a finding by the commissioner that a group health benefit plan issuer is in violation of this article, the commissioner may enter a cease and desist order in the manner provided under Article 1.10A of this code. If the group health benefit plan issuer refuses or fails to comply with the cease and desist order, the commissioner may, in the manner provided by this code and the other insurance laws of this state, revoke or suspend the issuer's certificate of authority or other authorization to engage in the operation of a group health benefit plan in this state.

(b) A group health benefit plan issuer that operates the plan in violation of this article is subject to an administrative penalty as provided by Article 1.10E of this code.

Sec. 8. EFFECT OF PREGNANCY. (a) No issuer of a group health benefit plan shall require, as a condition of insurance coverage, genetic testing of a child in utero without the consent of the pregnant woman.

(b) No issuer of a group health benefit plan shall use genetic information to coerce or compel a pregnant woman to have an induced abortion.

(c) "Coercion" for the purposes of this section means the restraining or domination of the free will of a woman by actual or implied force, or by actual or implied threat of rejection, denial, limitation, cancellation, refusal to renew, or otherwise adversely affecting eligibility for coverage under a group health benefit plan.

SECTION 4. This Act takes effect September 1, 1997.

SECTION 5. Article 9031, Revised Statutes, as added by this Act, applies only to a license issued or renewed by a licensing authority on or after the effective date of this Act. A license issued or renewed before that date is governed by the law in effect on the date the license was issued or renewed, and the former law is continued in effect for that purpose.

SECTION 6. Article 21.73, Insurance Code, as added by this Act, applies only to a group health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 1998. A group health benefit plan that is delivered, issued for delivery, or renewed before January 1, 1998, 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.

SECTION 7. 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 McCall moved to adopt the conference committee report on **HB 39**.

The motion prevailed.

HB 506 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Dutton submitted the following conference committee report on **HB 506**:

Austin, Texas, May 21, 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 506** 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.

Luna
Ellis
Cain
Shapleigh

Dutton
Alvarado
Uher
Hilbert
Zbranek

On the part of the Senate

On the part of the House

HB 506, A bill to be entitled An Act relating to a bill of review by a civil court.

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

SECTION 1. Title 3, Civil Practice and Remedies Code, is amended by adding Chapter 67 to read as follows:

CHAPTER 67. BILL OF REVIEW

Sec. 67.001. APPLICATION OF EQUITY PRINCIPLES. The principles governing a court of equity apply to a bill of review except as otherwise provided by this chapter.

Sec. 67.002. AVAILABILITY. A court may grant a bill of review of a court order or judgment in a civil case if the applicant for the bill of review shows that:

(1) through no fault on the part of the applicant, the applicant has not pursued a legal remedy available to the applicant to contest the order or judgment in a timely manner because of fraud, mistake of fact, accident, wrongful act, or court error;

(2) the applicant did not receive proper or legal notice or service of process in relation to the order or judgment; or

(3) the applicant was served notice by publication in relation to the order or judgment and did not have an opportunity to discover the notice or any subsequent court notices.

Sec. 67.003. LIMITATIONS PERIOD. A person must apply for a bill of review of a court order or judgment before the later of:

(1) the fourth anniversary of the date of the order or judgment; or

(2) 30 days after the date the person received personal notice or had knowledge of the order or judgment.

Sec. 67.004. VENUE. An application for a bill of review of a court order or judgment shall be filed in the court that rendered the order or judgment, or a successor of that court.

Sec. 67.005. CONTENTS OF APPLICATION. An application for a bill of review must, by verified affidavit:

(1) state each ground relied on by the applicant to justify a bill of review; and

(2) allege a meritorious claim or defense in relation to the court order or judgment that is the subject of the application for a bill of review.

Sec. 67.006. NECESSARY PARTY. (a) Any party affected by a court order or judgment that is the subject of an application for a bill of review is a necessary party to the action for the bill of review.

(b) A party described by Subsection (a) as a necessary party may intervene in the action at any time.

Sec. 67.007. PRETRIAL HEARING. On the motion of any party to an action for a bill of review, or on its own initiative, the court may provide for a pretrial hearing on matters relating to the action.

SECTION 2. (a) This Act takes effect September 1, 1997.

(b) This Act applies only to an application for a bill of review for a court order or judgment rendered on or after the effective date of this Act. An application for a bill of review for a court order or judgment rendered before the effective date of this Act is governed by the law applicable to the application immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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.

Representative Dutton moved to adopt the conference committee report on **HB 506**.

The motion prevailed.

HB 1212 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Averitt submitted the following conference committee report on **HB 1212**:

Austin, Texas, May 23, 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 1212** 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	Averitt
Duncan	Olivo
Ellis	Smithee
Patterson	Van de Putte
Shapleigh	

On the part of the Senate On the part of the House

HB 1212, A bill to be entitled An Act relating to health insurance portability and availability and the implementation of certain federal reforms relating to health insurance portability and availability.

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

PART 1. HEALTH INSURANCE PORTABILITY AND AVAILABILITY;
GENERAL PROVISIONS; SMALL EMPLOYERS

SECTION 1.01. Article 26.01, Insurance Code, is amended to read as follows:

Art. 26.01. SHORT TITLE. This chapter may be cited as the [Small Employer] Health Insurance Portability and Availability Act.

SECTION 1.02. Article 26.02, Insurance Code, is amended to read as follows:

Art. 26.02. DEFINITIONS. In this chapter:

(1) "Affiliation period" means a period that, under the terms of the coverage offered by a health maintenance organization, must expire before the coverage becomes effective. During an affiliation period:

(A) a health maintenance organization is not required to provide health care services or benefits to the participant or beneficiary; and

(B) a premium may not be charged to the participant or beneficiary. ["Affiliated employer" means a person connected by commonality of ownership with a small employer. The term includes a person that owns a small employer, shares directors with a small employer, or is eligible to file a consolidated tax return with a small employer.]

(2) "Agent" means a person who may act as an agent for the sale of a health benefit plan under a license issued under Section 15 or 15A, Texas Health Maintenance Organization Act (Article 20A.15 or 20A.15A, Vernon's Texas Insurance Code), or under Subchapter A, Chapter 21, of this code.

(3) "Base premium rate" means, for each class of business and for a specific rating period, the lowest premium rate that is charged or that could be charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for small employer health benefit plans with the same or similar coverage.

(4) "Board of directors" means the board of directors of the Texas Health Reinsurance System.

(5) "Case characteristics" means, with respect to a small employer, the geographic area in which that employer's employees reside, the age and gender of the individual employees and their dependents, the appropriate industry classification as determined by the small employer carrier, the number of employees and dependents, and other objective criteria as established by the small employer carrier that are considered by the small employer carrier in setting premium rates for that small employer. The term does not include ~~[claim experience,]~~ health status related factors, duration of coverage since the date of issuance of a health benefit plan, or whether a covered person is or may become pregnant.

(6) "Class of business" means all small employers or a separate grouping of small employers established under this chapter.

(7) "Creditable coverage" means coverage described by Article 26.035 of this code.

(8) "Dependent" means:

- (A) a spouse;
- (B) a newborn child;
- (C) a child under the age of 19 years;
- (D) a child who is a full-time student under the age of 23 years and who is financially dependent on the parent;
- (E) a child of any age who is medically certified as disabled and dependent on the parent; ~~[and]~~

(F) any person who must be covered under:

- (i) Section 3D or 3E, Article 3.51-6, of this code; or
- (ii) Section 2(L), Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code); and

(G) any other child included as an eligible dependent under an employer's benefit plan.

(9) [(8)] "Eligible employee" means an employee who works on a full-time basis and who usually works at least 30 hours a week. The term also includes a sole proprietor, a partner, and an independent contractor, if the sole

proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small or large employer. The term does not include:

(A) an employee who works on a part-time, temporary, seasonal, or substitute basis; or

(B) an employee who is covered under:

(i) another health benefit plan;

(ii) a self-funded or self-insured employee welfare benefit plan that provides health benefits and that is established in accordance with the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.);

(iii) the Medicaid program if the employee elects not to be covered;

(iv) another federal program, including the CHAMPUS program or Medicare program, if the employee elects not to be covered; or

(v) a benefit plan established in another country if the employee elects not to be covered.

(10) ~~(9)~~ "Health benefit plan" means a group, blanket, or franchise insurance policy, a certificate issued under a group policy, a group hospital service contract, or a group subscriber contract or evidence of coverage issued by a health maintenance organization that provides benefits for health care services. The term does not include:

(A) accident-only or disability income insurance or a combination of accident-only and disability income insurance ~~coverage~~;

(B) credit-only ~~credit~~ insurance ~~coverage~~;

(C) disability insurance coverage;

(D) coverage for a specified disease or illness ~~coverage or other limited benefit policies~~;

(E) ~~coverage of~~ Medicare services under a federal contract;

(F) Medicare supplement and Medicare Select policies regulated in accordance with federal law;

(G) long-term care ~~insurance~~ coverage or benefits, nursing home care coverage or benefits, home health care coverage or benefits, community-based care coverage or benefits, or any combination of those coverages or benefits;

(H) coverage that provides limited-scope ~~limited to~~ dental or ~~care~~;

~~(I) coverage limited to care of~~ vision benefits;

(L) ~~(J)~~ coverage provided by a single service health maintenance organization;

(J) ~~(K) insurance~~ coverage issued as a supplement to liability insurance;

(K) ~~(L) insurance coverage arising out of a~~ workers' compensation ~~system~~ or similar insurance ~~statutory system~~;

(L) ~~(M)~~ automobile medical payment insurance coverage;

(M) ~~(N)~~ jointly managed trusts authorized under 29 U.S.C. Section 141 et seq. that contain a plan of benefits for employees that is negotiated in a collective bargaining agreement governing wages, hours, and working conditions of the employees that is authorized under 29 U.S.C. Section 157;

(N) ~~[(O)]~~ hospital ~~[confinement]~~ indemnity or other fixed indemnity insurance ~~[coverage]~~; ~~[or]~~

(O) ~~[(P)]~~ reinsurance contracts issued on a stop-loss, quota-share, or similar basis;

(P) short-term major medical contracts;

(Q) liability insurance, including general liability insurance and automobile liability insurance;

(R) other coverage that is:

(i) similar to the coverage described by this subdivision under which benefits for medical care are secondary or incidental to other insurance benefits; and

(ii) specified in federal regulations;

(S) coverage for on-site medical clinics; or

(T) coverage that provides other limited benefits specified by federal regulations.

(11) ~~[(10)]~~ "Health carrier" means any entity authorized under this code or another insurance law of this state that provides health insurance or health benefits in this state, including an insurance company, a group hospital service corporation under Chapter 20 of this code, a health maintenance organization under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), and a stipulated premium company under Chapter 22 of this code.

(12) "Health status related factor" means:

(A) health status;

(B) medical condition, including both physical and mental illness;

(C) claims experience;

(D) receipt of health care;

(E) medical history;

(F) genetic information;

(G) evidence of insurability, including conditions arising out of acts of family violence; and

(H) disability.

(13) ~~[(11)]~~ "Index rate" means, for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and corresponding highest premium rate.

(14) "Large employer" means an employer who employed an average of at least 51 eligible employees on business days during the preceding calendar year and who employs at least two eligible employees on the first day of the plan year. For purposes of this definition, a partnership is the employer of a partner. A large employer includes a governmental entity subject to Section 1, Chapter 123, Acts of the 60th Legislature, Regular Session, 1967 (Article 3.51-3, Vernon's Texas Insurance Code), or Article 3.51-1, 3.51-2, 3.51-4, 3.51-5, or 3.51-5A of this code that otherwise meets the requirements of this section and elects to be treated as a large employer.

(15) "Large employer carrier" means a health carrier, to the extent that carrier is offering, delivering, issuing for delivery, or renewing health benefit plans subject to Subchapter H of this chapter.

(16) "Large employer health benefit plan" means a health benefit plan offered to a large employer.

(17) [(12)] "Late enrollee" means any [~~an eligible~~] employee or dependent eligible for enrollment who requests enrollment in a small or large employer's health benefit plan after the expiration of the initial enrollment period established under the terms of the first plan for which that employee or dependent was eligible through the small or large employer or after the expiration of an open enrollment period under Article 26.21(h) or 26.83 of this code. An [~~eligible~~] employee or dependent is not a late enrollee if:

(A) the individual:

(i) was covered under another [~~employer~~] health benefit plan or self-funded employer health benefit plan at the time the individual was eligible to enroll;

(ii) declines in writing, at the time of the initial eligibility, stating that coverage under another [~~employer~~] health benefit plan or self-funded employer health benefit plan was the reason for declining enrollment;

(iii) has lost coverage under another [~~employer~~] health benefit plan or self-funded employer health benefit plan as a result of:

(a) the termination of employment;

(b) the reduction in the number of hours of employment;

(c) [;] the termination of the other plan's coverage;

(d) the termination of contributions toward the premium made by the employer; or

(e) [;] the death of a spouse[;] or divorce;

and

(iv) requests enrollment not later than the 31st day after the date on which coverage under the other [~~another employer~~] health benefit plan or self-funded employer health benefit plan terminates;

(B) the individual is employed by an employer who offers multiple health benefit plans and the individual elects a different health benefit plan during an open enrollment period; [~~or~~]

(C) a court has ordered coverage to be provided for a spouse [~~or minor child~~] under a covered employee's plan and request for enrollment is made not later than the 31st day after [~~issuance of~~] the date on which the court order is issued; or

(D) a court has ordered coverage to be provided for a child under a covered employee's plan and the request for enrollment is made not later than the 31st day after the date on which the employer receives the court order.

(18) [(13)] "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate that is charged or offered or that could be charged or offered by the small employer carrier to small employers with similar case characteristics for newly issued small employer health benefit plans that provide the same or similar coverage.

(19) "Participation criteria" means any criteria or rules established by

a large employer to determine the employees who are eligible for enrollment, including continued enrollment, under the terms of a health benefit plan. Such criteria or rules may not be based on health status related factors.

(20) [(14)] "Person" means an individual, corporation, partnership, [association,] or other [private] legal entity.

(21) [(15)] "Plan of operation" means the plan of operation of the system established under Article 26.55 of this code.

(22) "Point-of-service contract" means a benefit plan offered through a health maintenance organization that:

(A) includes corresponding indemnity benefits in addition to benefits relating to out-of-area or emergency services provided through insurers or group hospital service corporations; and

(B) permits the insured to obtain coverage under either the health maintenance organization conventional plan or the indemnity plan as determined in accordance with the terms of the contract.

(23) [(16)] "Preexisting condition provision" means a provision that denies, excludes, or limits coverage as to a disease or condition for a specified period after the effective date of coverage.

(24) [(17)] "Premium" means all amounts paid by a small or large employer and eligible employees as a condition of receiving coverage from a small or large employer carrier, including any fees or other contributions associated with a health benefit plan.

(25) [(18)] "Rating period" means a calendar period for which premium rates established by a small employer carrier are assumed to be in effect.

(26) [(19)] "Reinsured carrier" means a small employer carrier participating in the system.

(27) [(20)] "Risk-assuming carrier" means a small employer carrier that elects not to participate in the system.

(28) [(21)] "Small employer" means an employer who employed an average of at least two but not more than 50 eligible employees on business days during the preceding calendar year and who employs at least two eligible employees on the first day of the plan year. For purposes of this definition, a partnership is the employer of a partner. A small employer includes a governmental entity subject to Section 1, Chapter 123, Acts of the 60th Legislature, Regular Session, 1967 (Article 3.51-3, Vernon's Texas Insurance Code), or Article 3.51-1, 3.51-2, 3.51-4, 3.51-5, or 3.51-5A of this code that otherwise meets the requirements of this section and elects to be treated as a small employer [a person that is actively engaged in business and that, on at least 50 percent of its working days during the preceding calendar year, employed at least three but not more than 50 eligible employees, including the employees of an affiliated employer, the majority of whom were employed in this state].

(29) [(22)] "Small employer carrier" means a health carrier, to the extent that that carrier is offering, delivering, issuing for delivery, or renewing health benefit plans subject to Subchapters C-G of this chapter under Article 26.06(a) of this code.

(30) [(23)] "Small employer health benefit plan" means a plan developed by the commissioner under Subchapter E of this chapter or any other

health benefit plan offered to a small employer in accordance with Article 26.42(c) or 26.48 of this code.

(31) [(24)] "System" means the Texas Health Reinsurance System established under Subchapter F of this chapter.

(32) "Waiting period" means a period established by an employer that must pass before an individual who is a potential enrollee in a health benefit plan is eligible to be covered for benefits.

~~[(25) "Point-of-service contract" means a benefit plan offered through a health maintenance organization that:~~

~~[(A) includes corresponding indemnity benefits in addition to benefits relating to out-of-area or emergency services provided through insurers or group hospital service corporations; and~~

~~[(B) permits the insured to obtain coverage under either the health maintenance organization conventional plan or the indemnity plan as determined in accordance with the terms of the contract.]~~

SECTION 1.03. Subchapter A, Chapter 26, Insurance Code, is amended by adding Articles 26.035 and 26.036 to read as follows:

Art. 26.035. CREDITABLE COVERAGE. (a) An individual's coverage is creditable for purposes of this chapter if the coverage is provided under:

(1) a self-funded or self-insured employee welfare benefit plan that provides health benefits and that is established in accordance with the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.);

(2) a group health benefit plan provided by a health insurance carrier or health maintenance organization;

(3) an individual health insurance policy or evidence of coverage;

(4) Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. Section 1395c et seq.);

(5) Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.), other than coverage consisting solely of benefits under Section 1928 of that Act (42 U.S.C. Section 1396s);

(6) Chapter 55, Title 10, United States Code (10 U.S.C. Section 1071 et seq.);

(7) a medical care program of the Indian Health Service or of a tribal organization;

(8) a state health benefits risk pool;

(9) a health plan offered under Chapter 89, Title 5, United States Code (5 U.S.C. Section 8901 et seq.);

(10) a public health plan as defined by federal regulations; or

(11) a health benefit plan under Section 5(e), Peace Corps Act (22 U.S.C. Section 2504(e)).

(b) Creditable coverage does not include:

(1) accident-only or disability income insurance, or a combination of accident-only and disability income insurance;

(2) coverage issued as a supplement to liability insurance;

(3) liability insurance, including general liability insurance and automobile liability insurance;

(4) workers' compensation or similar insurance;

(5) automobile medical payment insurance;

- (6) credit-only insurance;
- (7) coverage for on-site medical clinics;
- (8) other coverage that is:

(A) similar to the coverage described by this subsection under which benefits for medical care are secondary or incidental to other insurance benefits; and

(B) specified in federal regulations;

- (9) coverage that provides limited-scope dental or vision benefits;
- (10) long-term care coverage or benefits, nursing home care coverage or benefits, home health care coverage or benefits, community-based care coverage or benefits, or any combination of those coverages or benefits;

(11) coverage that provides other limited benefits specified by federal regulations;

(12) coverage for a specified disease or illness;

(13) hospital indemnity or other fixed indemnity insurance; or

(14) Medicare supplemental health insurance as defined under Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss), coverage supplemental to the coverage provided under Chapter 55, Title 10, United States Code (10 U.S.C. Section 1071 et seq.), and similar supplemental coverage provided under a group plan.

Art. 26.036. SCHOOL DISTRICT ELECTION. (a) An independent school district may elect to participate in the small employer market without regard to the number of eligible employees of the independent school district.

(b) An independent school district that elects to participate in the small employer market under this Article is treated as a small employer under this chapter for all purposes.

SECTION 1.04. Article 26.04, Insurance Code, is amended to read as follows:

Art. 26.04. RULES. The commissioner [~~board~~] shall adopt rules as necessary to implement this chapter and to meet the minimum requirements of federal law and regulations.

SECTION 1.05. Article 26.06, Insurance Code, is amended to read as follows:

Art. 26.06. APPLICABILITY. (a) An individual or group health benefit plan is subject to Subchapters C-G of this chapter if it provides health care benefits covering two [~~three~~] or more eligible employees of a small employer and if [~~it meets any one of the following conditions~~]:

(1) a portion of the premium or benefits is paid by a small employer;
or

(2) the health benefit plan is treated by the employer or by a covered individual as part of a plan or program for the purposes of Section 106 or 162, Internal Revenue Code of 1986 (26 U.S.C. Section 106 or 162).

(b) For an employer who was not in existence throughout the calendar year preceding the year in which the determination of whether the employer is a small employer is made, the determination is based on the average number of eligible employees the employer reasonably expects to employ on business days in the calendar year in which the determination is made.

(c) Except as provided by Subsection (a) of this article, this chapter does

not apply to an individual health insurance policy that is subject to individual underwriting, even if the premium is remitted through a payroll deduction method.

(d) [(e)] Except as expressly provided in this chapter, a small employer health benefit plan is not subject to a law that requires coverage or the offer of coverage of a health care service or benefit.

SECTION 1.06. Article 26.13(a), Insurance Code, is amended to read as follows:

Art. 26.13. TEXAS HEALTH BENEFITS PURCHASING COOPERATIVE.

(a) The Texas Health benefits Purchasing Cooperative is a nonprofit organization established to make health care coverage available to small and large employers and their eligible employees and eligible employees' dependents.

SECTION 1.07. Article 26.14(a) and (d), Insurance Code, are amended to read as follows:

(a) Two or more small or large employers may form a cooperative for the purchase of small or large employer health benefit plans. A cooperative must be organized as a nonprofit corporation and has the rights and duties provided by the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

(d) A purchasing cooperative or a member of the board of directors, the executive director, or an employee or agent of a purchasing cooperative is not liable for:

(1) an act performed in good faith in the execution of duties in connection with the purchasing cooperative; or

(2) an independent action of a small or large employer insurance carrier or a person who provides health care services under a health benefit plan.

SECTION 1.08. Articles 26.15(a) and (b), Insurance Code, are amended to read as follows:

(a) A cooperative:

(1) shall arrange for small or large employer health benefit plan coverage for small or large employer groups who participate in the cooperative by contracting with small or large employer carriers who meet the criteria established by Subsection (b) of this article;

(2) shall collect premiums to cover the cost of:

(A) small or large employer health benefit plan coverage purchased through the cooperative; and

(B) the cooperative's administrative expenses;

(3) may contract with agents to market coverage issued through the cooperative;

(4) shall establish administrative and accounting procedures for the operation of the cooperative;

(5) shall establish procedures under which an applicant for or participant in coverage issued through the cooperative may have a grievance reviewed by an impartial person;

(6) may contract with a small or large employer carrier or third-party administrator to provide administrative services to the cooperative;

(7) shall contract with small or large employer carriers for the provision of services to small or large employers covered through the cooperative;

(8) shall develop and implement a plan to maintain public awareness of the cooperative and publicize the eligibility requirements for, and the procedures for enrollment in coverage through, the cooperative; and

(9) may negotiate the premiums paid by its members.

(b) A cooperative may contract only with small or large employer carriers who desire to offer coverage through the cooperative and who demonstrate:

(1) that the carrier is a health carrier or health maintenance organization licensed and in good standing with the department;

(2) the capacity to administer the health benefit plans;

(3) the ability to monitor and evaluate the quality and cost effectiveness of care and applicable procedures;

(4) the ability to conduct utilization management and applicable procedures and policies;

(5) the ability to assure enrollees adequate access to health care providers, including adequate numbers and types of providers;

(6) a satisfactory grievance procedure and the ability to respond to enrollees' calls, questions, and complaints; and

(7) financial capacity, either through financial solvency standards as applied by the commissioner or through appropriate reinsurance or other risk-sharing mechanisms.

SECTION 1.09. Articles 26.21(a), (h), (k), and (n), Insurance Code, are amended to read as follows:

(a) Each small employer carrier shall provide the small employer health benefit plans without regard to [~~claim experience,~~] health status related factors [~~or medical history~~]. Each small employer carrier shall issue the plan chosen by the small employer to each small employer that elects to be covered under that plan and agrees to satisfy the other requirements of the plan.

(h) The initial enrollment period for the employees and their dependents must be at least 31 days, with a 31-day open enrollment period provided annually. Such enrollment period shall consist of an entire calendar month, beginning on the first day of the month and ending on the last day of the month. If the month is February, the period shall last through March 2nd.

(k) A late enrollee may be excluded from coverage until the next annual open enrollment period and may be subject to a 12-month preexisting condition provision as described by Article 26.49 of this code. The period during which a preexisting condition provision is imposed may not exceed 18 months from the date of the initial application.

(n) A small employer health benefit plan may not limit or exclude initial coverage of a newborn child of a covered employee. Any coverage of a newborn child of an employee under this subsection terminates on the 32nd day after the date of the birth of the child unless[:

~~(1) dependent children are eligible for coverage; and~~

~~(2)]~~ notification of the birth and any required additional premium are received by the small employer carrier not later than the 31st day after the date of birth.

SECTION 1.10. Subchapter C, Chapter 26, Insurance Code, is amended by adding Article 26.21A to read as follows:

Art. 26.21A. COVERAGE FOR ADOPTED CHILDREN. (a) A small employer health benefit plan may not limit or exclude initial coverage of an adopted child of an insured. A child is considered to be the child of an insured if the insured is a party in a suit in which the adoption of the child by the insured is sought.

(b) The adopted child of an insured may be enrolled, at the option of the insured, within either:

(1) 31 days after the insured is a party in a suit for adoption; or

(2) 31 days of the date the adoption is final.

(c) Coverage of an adopted child of an employee under this article terminates unless notification of the adoption and any required additional premiums are received by the small employer carrier not later than either:

(1) the 31st day after the insured becomes a party in a suit in which the adoption of the child by the insured is sought; or

(2) the 31st day after the date of the adoption.

SECTION 1.11. Articles 26.22(a) and (e), Insurance Code, are amended to read as follows:

(a) A small employer carrier is not required to offer or issue the small employer health benefit plans:

(1) to a small employer that is not located within a geographic service area of the small employer carrier;

(2) to an employee of a small employer who neither resides nor works in the geographic service area of the small employer carrier; or

(3) to a small employer located within a geographic service area with respect to which the small employer carrier demonstrates to the satisfaction of the commissioner that:

(A) the small employer carrier reasonably anticipates that it will not have the capacity to deliver services adequately because of obligations to existing covered individuals; and

(B) the small employer carrier is acting uniformly without regard to claims experience of the employer or any health status related factor of employees or dependents or new employees or dependents who may become eligible for the coverage.

(e) If the commissioner determines that requiring the acceptance of small employers under this subchapter would place a small employer carrier in a financially impaired condition and that the small employer carrier is acting uniformly without regard to the claims experience of the small employer or any health status related factors of employees or dependents or new employees or dependents who may become eligible for the coverage, the small employer carrier shall [is] not offer [required to provide] coverage to small employers until the later of:

(1) the 180th day after the date the commissioner makes the determination; or

(2) the date the commissioner determines that accepting small employers would not place the small employer carrier in a financially impaired condition [for a period to be set by the commissioner].

SECTION 1.12. Articles 26.23(a) and (b), Insurance Code, are amended to read as follows:

(a) Except as provided by Article 26.24 of this code, a small employer carrier shall renew the small employer health benefit plan for any covered small employer, at the option of the small employer, unless ~~except for~~:

(1) ~~nonpayment of~~ a premium has not been paid as required by the terms of the plan;

(2) the small employer has committed fraud or intentional misrepresentation of a material fact ~~[by the small employer]~~; ~~or~~

(3) the ~~[noncompliance with]~~ small employer has not complied with the terms of the health benefit plan;

(4) no enrollee in connection with the plan resides or works in the service area of the small employer carrier or in the area for which the small employer carrier is authorized to do business; or

(5) membership of an employer in an association terminates, but only if coverage is terminated uniformly without regard to a health status related factor of a covered individual ~~[provisions]~~.

(b) A small employer carrier may refuse to renew the coverage of an eligible employee or dependent for fraud or intentional misrepresentation of a material fact by that individual.

SECTION 1.13. Article 26.24, Insurance Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) A small employer carrier may elect to refuse to renew all ~~each~~ small employer health benefit plans ~~plan~~ delivered or issued for delivery by the small employer carrier in this state or in a geographic service area approved under Article 26.22 of this code. The small employer carrier shall ~~must~~ notify the commissioner of the election not later than the 180th day before the date coverage under the first small employer health benefit plan terminates under this subsection.

(d) A small employer carrier may elect to discontinue a particular type of small employer coverage only if the small employer carrier:

(1) provides notice to each employer of the discontinuation before the 90th day preceding the date of the discontinuation of the coverage;

(2) offers to each employer the option to purchase other small employer coverage offered by the small employer carrier at the time of the discontinuation; and

(3) acts uniformly without regard to the claims experience of the employer or any health status related factors of employees or dependents or new employees or dependents who may become eligible for the coverage.

SECTION 1.14. Article 26.25, Insurance Code, is amended to read as follows:

Art. 26.25. NOTICE TO COVERED PERSONS. (a) Not later than the 30th day before the date on which termination of coverage is effective, a small employer carrier that cancels or refuses to renew coverage under a small employer health benefit plan under Article 26.23 or 26.24 of this code shall notify the small employer of the cancellation or refusal to renew. It is the responsibility of the small employer to notify enrollees of the cancellation or refusal to renew the coverage.

(b) The notice provided to a small employer by a small employer carrier under this article is in addition to any other notice required by Article 26.23 or 26.24 of this code.

SECTION 1.15. Article 26.33, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) A small employer carrier may establish premium discounts, rebates, or a reduction in otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention. A discount, rebate, or reduction established under this subsection does not violate Section 4(8), Article 21.21, of this code.

SECTION 1.16. Article 26.40, Insurance Code, is amended to read as follows:

Art. 26.40. DISCLOSURE. (a) In connection with the offering for sale of any small employer health benefit plan, each small employer carrier and each agent shall make a reasonable disclosure, as part of its solicitation and sales materials, of:

(1) the extent to which premium rates for a specific small employer are established or adjusted based on the actual or expected variation in claim costs or the actual or expected variation in health status of the employees of the small employer and their dependents;

(2) provisions concerning the small employer carrier's right to change premium rates and the factors other than claim experience that affect changes in premium rates;

(3) provisions relating to renewability of policies and contracts; and

(4) any preexisting condition provision.

(b) Each small employer carrier shall disclose on request by a small employer the benefits and premiums available under all small employer coverage for which the employer is qualified.

(c) A small employer carrier is not required to disclose any information to a small employer that is proprietary or trade secret information under applicable law.

(d) Information provided under this article to small employers must be provided in a manner that is understandable by the average small employer and sufficient to reasonably inform small employers of their rights and obligations under a small employer health benefit plan.

SECTION 1.17. Article 26.49, Insurance Code, is amended to read as follows:

Art. 26.49. PREEXISTING CONDITION PROVISIONS. (a) A preexisting condition provision in a small employer health benefit plan may not apply to expenses incurred on or after the expiration of the 12 months following the initial effective date of coverage of the enrollee or late enrollee.

(b) A preexisting condition provision in a small employer health benefit plan may not apply to coverage for a disease or condition other than a disease or condition for which medical advice, diagnosis, care, or treatment was recommended or received during the six months before the earlier of:

(1) the effective date of coverage; or

(2) the first day of the waiting period.

(c) A small employer carrier shall not treat genetic information as a

preexisting condition described by Subsection (b) of this article in the absence of a diagnosis of the condition related to the information.

(d) A small employer carrier shall not treat a pregnancy as a preexisting condition described by Subsection (b) of this article.

(e) A preexisting condition provision in a small employer health benefit plan may not apply to an individual who was continuously covered for an aggregate [a minimum] period of 12 months under creditable coverage [by a health benefit plan] that was in effect up to a date not more than 63 [60] days before the effective date of coverage under the small employer health benefit plan, excluding any waiting period.

(f) [(d)] In determining whether a preexisting condition provision applies to an individual covered by a small employer health benefit plan, the small employer carrier shall credit the time the individual was covered under creditable coverage [a previous health benefit plan] if the previous coverage was in effect at any time during the 12 months preceding the effective date of coverage under a small employer health benefit plan. If the previous coverage was issued under [by] a health benefit plan [maintenance organization], any waiting period that applied before that coverage became effective also shall be credited against the preexisting condition provision period.

(g) A health maintenance organization may impose an affiliation period if the period is applied uniformly without regard to any health status related factor. The affiliation period shall not exceed two months for an enrollee, other than a late enrollee, and shall not exceed 90 days for a late enrollee. An affiliation period under a plan shall run concurrently with any applicable waiting period under the plan. The health maintenance organization must credit an affiliation period to any preexisting condition provision period. A health maintenance organization may use an alternative method approved by the commissioner to address adverse selection.

[(e) A carrier that does not use a preexisting condition provision in any of its health benefit plans may impose an affiliation period. For purposes of this subsection, "affiliation period" means a period not to exceed 90 days for new enrollees and not to exceed 180 days for late enrollees during which premiums are not collected and the issued coverage is not effective.]

(h) This [(f) Subsection (e) of this] article does not preclude application of any waiting period applicable to all new enrollees under the health benefit plan. [However, any carrier-imposed waiting period may not exceed 90 days and must be used in lieu of a preexisting condition provision.]

SECTION 1.18. The headings to Subchapters C, D, E, F, and G, Chapter 26, Insurance Code, are amended to read as follows:

SUBCHAPTER C. GUARANTEED ISSUE AND
RENEWABILITY OF SMALL
EMPLOYER HEALTH BENEFIT PLANS
SUBCHAPTER D. UNDERWRITING AND RATING
OF SMALL EMPLOYER HEALTH BENEFIT PLANS
SUBCHAPTER E. COVERAGE UNDER
SMALL EMPLOYER HEALTH BENEFIT PLANS
SUBCHAPTER F. REINSURANCE FOR
SMALL EMPLOYER HEALTH BENEFIT PLANS

SUBCHAPTER G. MARKETING OF
SMALL EMPLOYER HEALTH BENEFIT PLANS

PART 2. PROVISIONS APPLICABLE TO LARGE EMPLOYERS

SECTION 2.01. Chapter 26, Insurance Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. LARGE EMPLOYER HEALTH BENEFIT PLANS

Art. 26.81. APPLICABILITY. (a) An individual or group health benefit plan is subject to this subchapter if the plan provides health care benefits to eligible employees of a large employer and if:

(1) a portion of the premium or benefits is paid by a large employer;

or

(2) the health benefit plan is treated by the employer or by a covered individual as part of a plan or program for the purposes of Section 106 or 162, Internal Revenue Code of 1986 (26 U.S.C. Section 106 or 162).

(b) For an employer who was not in existence throughout the calendar year preceding the year in which the determination of whether the employer is a large employer is made, the determination is based on the average number of eligible employees the employer reasonably expects to employ on business days in the calendar year in which the determination is made.

(c) Except as provided by Subsection (a) of this article, this subchapter does not apply to an individual health insurance policy that is subject to individual underwriting, even if the premium is remitted through payroll deduction.

Art. 26.82. CERTIFICATION. Not later than March 1 of each year, each health carrier shall certify to the commissioner whether, as of January 1 of that year, it is offering a health benefit plan subject to this subchapter under Article 26.81 of this code.

Art. 26.83. COVERAGE REQUIREMENTS. (a) A large employer carrier may refuse to provide coverage to a large employer in accordance with the carrier's underwriting standards and criteria. However, on issuance of a health benefit plan to a large employer, each large employer carrier shall provide coverage to the employees who meet the participation criteria established by the large employer without regard to an individual's health status related factors. The participation criteria may not be based on health status related factors.

(b) The large employer carrier shall accept or reject the entire group of individuals who meet the participation criteria established by the employer and who choose coverage and may exclude only those employees or dependents who have declined coverage. The carrier may charge premiums in accordance with Article 26.89 of this code to the group of employees or dependents who meet the participation criteria established by the employer and who do not decline coverage.

(c) The large employer carrier shall obtain a written waiver for each employee who meets the participation criteria and who declines coverage under the health plan offered to a large employer. The waiver must ensure that the employee was not induced or pressured into declining coverage because of the employee's health status related factors.

(d) A large employer carrier may not provide coverage to a large employer or the employees of a large employer if the carrier or an agent for the carrier

knows that the large employer has induced or pressured an employee who meets the participation criteria or a dependent of the employee to decline coverage because of that individual's health status related factors.

(e) A large employer carrier may require a large employer to meet minimum contribution or participation requirements as a condition of issuance and renewal in accordance with the carrier's usual and customary practices for all employer health benefit plans in this state. The participation requirements may determine the percentage of individuals that must be enrolled in the plan in accordance with the participation criteria established by the employer. Those requirements must be stated in the contract and must be applied uniformly to each large employer offered or issued coverage by the large employer carrier in this state.

(f) The initial enrollment period for employees meeting the participation criteria must be at least 31 days, with a 31-day annual open enrollment period. Such enrollment period shall consist of an entire calendar month, beginning on the first day of the month and ending on the last day of the month. If the month is February, the period shall last through March 2nd.

(g) If dependent coverage is offered to enrollees under a large employer health benefit plan, the initial enrollment period for the dependents must be at least 31 days, with a 31-day annual open enrollment period.

(h) A large employer may establish a waiting period during which a new employee is not eligible for coverage. The employer shall determine the duration of the waiting period.

(i) A new employee who meets the participation criteria of a covered large employer may not be denied coverage if the application for coverage is received by the large employer not later than the 31st day after the later of:

(1) the date on which the employment begins; or

(2) the date on which the waiting period established under Subsection

(h) of this article expires.

(j) If dependent coverage is offered to the enrollees under a large employer health benefit plan, a dependent of a new employee who meets the participation criteria established by the large employer may not be denied coverage if the application for coverage is received by the large employer not later than the 31st day after the later of:

(1) the date on which the employment begins;

(2) the date on which the waiting period established under Subsection

(h) of this article expires; or

(3) the date on which the dependent becomes eligible for enrollment.

(k) A late enrollee may be excluded from coverage until the next annual open enrollment period and may be subject to a 12-month preexisting condition provision as described by Article 26.90 of this code. The period during which a preexisting condition provision applies may not exceed 18 months from the date of the initial application.

(l) A large employer carrier may not exclude any employee who meets the participation criteria or an eligible dependent, including a late enrollee, who would otherwise be covered under a large employer group.

(m) A large employer health benefit plan may not, by use of a rider or amendment applicable to a specific individual, limit or exclude coverage by type

of illness, treatment, medical condition, or accident, except for a preexisting condition permitted under Article 26.90 of this code.

Art. 26.84. DEPENDENT CHILDREN. (a) A large employer health benefit plan may not limit or exclude initial coverage of a newborn child of a covered employee. Any coverage of a newborn child of a covered employee under this subsection terminates on the 32nd day after the date of the birth of the child unless:

(1) dependent children are eligible for coverage under the large employer health benefit plan; and

(2) notification of the birth and any required additional premium are received by the large employer carrier not later than the 31st day after the date of birth.

(b) If dependent children are eligible for coverage under the large employer health benefit plan, a large employer health benefit plan may not limit or exclude initial coverage of an adopted child of an insured. A child is considered to be the child of an insured if the insured is a party in a suit in which the adoption of the child by the insured is sought.

(c) If dependent children are eligible for coverage under the large employer health benefit plan an adopted child of an insured may be enrolled, at the option of the insured, within either:

(1) 31 days after the insured is a party in a suit for adoption; or

(2) 31 days of the date the adoption is final.

(d) Coverage of an adopted child of an employee under this article terminates unless notification of the adoption and any required additional premiums are received by the large employer carrier not later than either:

(1) the 31st day after the insured becomes a party in a suit in which the adoption of the child by the insured is sought; or

(2) the 31st day after the date of the adoption.

Art. 26.85. GEOGRAPHIC SERVICE AREA. (a) A large employer carrier is not required to offer or issue the large employer health benefit plans to:

(1) a large employer that is not located within a geographic service area of the large employer carrier;

(2) an employee of a large employer who neither resides nor works in the geographic service area of the large employer carrier; or

(3) a large employer located within a geographic service area with respect to which the large employer carrier demonstrates to the satisfaction of the commissioner that the large employer carrier:

(A) reasonably anticipates that it will not have the capacity to deliver services adequately because of obligations to existing covered individuals; and

(B) is acting uniformly without regard to the claims experience of the large employer or any health status related factor of employees or dependents or new employees or dependents who may become eligible for the coverage.

(b) A large employer carrier that is unable to offer coverage in a geographic service area in accordance with a determination made by the commissioner under Subsection (a)(3) of this article may not offer large

employer benefit plans in the applicable service area before the 180th day after the later of:

(1) the date of the refusal; or

(2) the date the carrier demonstrates to the satisfaction of the commissioner that it has regained the capacity to deliver services to large employers in the geographic service area.

(c) If the commissioner determines that requiring the acceptance of large employers under this subchapter would place a large employer carrier in a financially impaired condition and that the large employer carrier is acting uniformly without regard to the claims experience of the large employer or any health status related factors of employees or dependents or new employees or dependents who may become eligible for the coverage, the large employer carrier may not offer coverage to large employers until the later of:

(1) the 180th day after the date the commissioner makes the determination; or

(2) the date the commissioner determines that accepting large employers would not place the large employer carrier in a financially impaired condition.

(d) A large employer carrier must file each of its geographic service areas with the commissioner. The commissioner may disapprove the use of a geographic service area by a large employer carrier.

Art. 26.86. RENEWABILITY OF COVERAGE; CANCELLATION.

(a) Except as provided by Article 26.87 of this code, a large employer carrier shall renew the large employer health benefit plans for a covered large employer, at the option of the large employer, unless:

(1) a premium has not been paid as required by the terms of the plan;

(2) the large employer has committed fraud or intentional misrepresentation of a material fact;

(3) the large employer has not complied with the terms of the health benefit plan;

(4) no enrollee in connection with the plan resides or works in the service area of the large employer carrier or in the area for which the large employer carrier is authorized to do business; or

(5) membership of an employer in an association terminates, but only if coverage is terminated uniformly without regard to a health status related factor of a covered individual.

(b) A large employer carrier may refuse to renew the coverage of an eligible employee or dependent for fraud or intentional misrepresentation of a material fact by that individual.

(c) A large employer carrier may not cancel a large employer health benefit plan except for the reasons specified for refusal to renew under Subsection (a) of this article. A large employer carrier may not cancel the coverage of an eligible employee or dependent except for the reasons specified for refusal to renew under Subsection (b) of this article.

Art. 26.87. REFUSAL TO RENEW. (a) A large employer carrier may elect to refuse to renew all large employer health benefit plans delivered or issued for delivery by the large employer carrier in this state or in a geographic service area approved under Article 26.85 of this code. The large employer

carrier shall notify the commissioner of the election not later than the 180th day before the date coverage under the first large employer health benefit plan terminates under this subsection.

(b) The large employer carrier shall notify each affected covered large employer not later than the 180th day before the date on which coverage terminates for that large employer.

(c) A large employer carrier that elects under Subsection (a) of this article to refuse to renew all large employer health benefit plans in this state or in an approved geographic service area may not write a new large employer health benefit plan in this state or in the geographic service area, as applicable, before the fifth anniversary of the date on which notice is delivered to the commissioner under Subsection (a) of this article.

(d) A large employer carrier may elect to discontinue a particular type of large employer coverage only if the large employer carrier:

(1) provides notice to each employer of the discontinuation before the 90th day preceding the date of the discontinuation of the coverage;

(2) offers to each employer the option to purchase other large employer coverage offered by the large employer carrier at the time of the discontinuation; and

(3) acts uniformly without regard to the claims experience of the employer or any health status related factors of employees or dependents or new employees or dependents who may become eligible for the coverage.

Art. 26.88. NOTICE TO COVERED PERSONS. (a) Not later than the 30th day before the date on which termination of coverage is effective, a large employer carrier that cancels or refuses to renew coverage under a large employer health benefit plan under Article 26.86 or 26.87 of this code shall notify the large employer of the cancellation or refusal to renew. It is the responsibility of the large employer to notify enrollees of the cancellation or refusal to renew the coverage.

(b) The notice provided to a large employer by a large employer carrier under this article is in addition to any other notice required by Article 26.86 or 26.87 of this code.

Art. 26.89. PREMIUM RATES; ADJUSTMENTS. (a) A large employer carrier may not charge an adjustment to premium rates for individual employees or dependents for health status related factors or duration of coverage. Any adjustment must be applied uniformly to the rates charged for all employees and dependents of employees of the large employer. This subsection does not restrict the amount that a large employer may be charged for coverage.

(b) A large employer carrier may establish premium discounts, rebates, or a reduction in otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention. A discount, rebate, or reduction established under this subsection does not violate Section 4(8), Article 21.21, of this code.

Art. 26.90. PREEXISTING CONDITION PROVISIONS. (a) A preexisting condition provision in a large employer health benefit plan may not apply to an expense incurred on or after the expiration of the 12 months following the initial effective date of coverage of the enrollee or late enrollee.

(b) A preexisting condition provision in a large employer health benefit

plan may not apply to coverage for a disease or condition other than a disease or condition for which medical advice, diagnosis, care, or treatment was recommended or received during the six months before the earlier of:

- (1) the effective date of coverage; or
- (2) the first day of the waiting period.

(c) A large employer carrier shall not treat genetic information as a preexisting condition described by Subsection (b) of this article in the absence of a diagnosis of the condition related to the information.

(d) A large employer carrier shall not treat a pregnancy as a preexisting condition described by Subsection (b) of this article.

(e) A preexisting condition provision in a large employer health benefit plan shall not apply to an individual who was continuously covered for an aggregate period of 12 months under creditable coverage that was in effect up to a date not more than 63 days before the effective date of coverage under the large employer health benefit plan, excluding any waiting period.

(f) In determining whether a preexisting condition provision applies to an individual covered by a large employer health benefit plan, the large employer carrier shall credit the time the individual was covered under creditable coverage if the previous coverage was in effect at any time during the 12 months preceding the effective date of coverage under a large employer health benefit plan. If the previous coverage was issued under a health benefit plan, any waiting period shall also be credited to the preexisting condition provision period.

(g) A health maintenance organization may impose an affiliation period if the period is applied uniformly without regard to any health status related factor. The affiliation period shall not exceed two months for an enrollee, other than a late enrollee, and shall not exceed 90 days for a late enrollee. An affiliation period under a plan shall run concurrently with any applicable waiting period under the plan. The health maintenance organization must credit an affiliation period to any preexisting condition provision period. A health maintenance organization may use an alternative method approved by the commissioner to address adverse selection.

(h) This article does not preclude application of any waiting period applicable to all new enrollees under the health benefit plan.

Art. 26.91. FAIR MARKETING. (a) On request, each large employer purchasing health benefit plans shall be given a summary of all plans for which the employer is eligible.

(b) The department may require periodic reports by large employer carriers and agents regarding the large employer health benefit plans issued by those carriers. The reporting requirements must require information regarding the number of large employer health benefit plans in various categories that are marketed or issued to large employers and must comply with federal law and regulations.

Art. 26.92. HEALTH STATUS AND CLAIMS EXPERIENCE; PROHIBITED ACTS. A large employer carrier or agent may not encourage a large employer to exclude an employee, meeting the participation criteria, from health coverage provided in connection with the employee's employment.

Art. 26.93. AGENTS. A large employer carrier may not terminate, fail to

renew, or limit its contract or agreement of representation with an agent because of any health status related factors of a large employer group placed by the agent with the carrier.

Art. 26.94. WRITTEN STATEMENT OF DENIAL, CANCELLATION, OR REFUSAL TO RENEW. Denial by a large employer carrier of an application for coverage from a large employer carrier or cancellation or refusal to renew must be in writing and must state the reason or reasons for the denial, cancellation, or refusal.

Art. 26.95. THIRD-PARTY ADMINISTRATOR. If a large employer carrier enters into an agreement with a third-party administrator to provide administrative, marketing, or other services related to the offering of large employer health benefit plans to large employers in this state, the third-party administrator is subject to this subchapter.

PART 3. CERTIFICATION OF COVERAGE

SECTION 3.01. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.52G to read as follows:

Art. 21.52G. CERTIFICATION AND DISCLOSURE OF COVERAGE UNDER HEALTH BENEFIT PLAN

Sec. 1. DEFINITIONS. In this article:

(1) "Creditable coverage" means creditable coverage described by Section 3 of this article.

(2) "Health benefit plan" means a plan subject to this article under Section 2 of this article.

Sec. 2. HEALTH BENEFIT PLAN. This article applies to a health benefit plan that:

(1) provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including:

(A) an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage that is offered by:

(i) an insurance company;

(ii) a group hospital service corporation operating under Chapter 20 of this code;

(iii) a fraternal benefit society operating under Chapter 10 of this code;

(iv) a stipulated premium insurance company operating under Chapter 22 of this code; or

(v) a health maintenance organization operating under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code); or

(B) to the extent permitted by the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), a health benefit plan that is offered by:

(i) a multiple employer welfare arrangement as defined by Section 3, Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1002), and operating under Article 3.95-1 et seq. of this code; or

(ii) another analogous benefit arrangement;

(2) is offered by an approved nonprofit health corporation that is certified under Section 5.01(a), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), and that holds a certificate of authority issued by the commissioner under Article 21.52F of this code; or

(3) is offered by any other entity not licensed under this code or another insurance law of this state that contracts directly for health care services on a risk-sharing basis, including an entity that contracts for health care services on a capitation basis.

Sec. 3. CREDITABLE COVERAGE. (a) An individual's coverage is creditable for purposes of this article if the coverage is provided under:

(1) a self-funded or self-insured employee welfare benefit plan that provides health benefits and that is established in accordance with the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.);

(2) a group health benefit plan provided by a health insurance carrier or health maintenance organization;

(3) an individual health insurance policy or evidence of coverage;

(4) Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. Section 1395c et seq.);

(5) Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.), other than coverage consisting solely of benefits under Section 1928 of that Act (42 U.S.C. Section 1396s);

(6) Chapter 55, Title 10, United States Code (10 U.S.C. Section 1071 et seq.);

(7) a medical care program of the Indian Health Service or of a tribal organization;

(8) a state health benefits risk pool;

(9) a health plan offered under Chapter 89, Title 5, United States Code (5 U.S.C. Section 8901 et seq.);

(10) a public health plan as defined by federal regulations; or

(11) a health benefit plan under Section 5(e), Peace Corps Act (22 U.S.C. Section 2504(e)).

(b) Creditable coverage does not include:

(1) accident-only or disability income insurance, or a combination of accident-only and disability income insurance;

(2) coverage issued as a supplement to liability insurance;

(3) liability insurance, including general liability insurance and automobile liability insurance;

(4) workers' compensation or similar insurance;

(5) automobile medical payment insurance;

(6) credit-only insurance;

(7) coverage for on-site medical clinics;

(8) other coverage that is:

(A) similar to the coverage described in this subsection under which benefits for medical care are secondary or incidental to other insurance benefits; and

(B) specified in federal regulations;

(9) coverage that provides limited-scope dental or vision benefits;

(10) long-term care coverage or benefits, nursing home care coverage

or benefits, home health care coverage or benefits, community-based care coverage or benefits, or any combination of those coverages or benefits;

(11) coverage that provides other limited benefits specified by federal regulations;

(12) coverage for a specified disease or illness;

(13) hospital indemnity or other fixed indemnity insurance; or

(14) Medicare supplemental health insurance as defined under Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss), coverage supplemental to the coverage provided under Chapter 55, Title 10, United States Code (10 U.S.C. Section 1071 et seq.), and similar supplemental coverage provided under a group plan.

Sec. 4. CERTIFICATION OF COVERAGE. Each issuer of a health benefit plan shall provide a certification of coverage, in accordance with the standards the commissioner adopts by rule, as necessary to determine the period of applicable creditable coverage of health benefit plans.

Sec. 5. RULES. The commissioner shall adopt rules as necessary to implement this article and related provisions of this code and to meet the minimum requirements of federal law and regulations.

PART 4. MULTIPLE EMPLOYER WELFARE ARRANGEMENTS

SECTION 4.01. Article 3.95-1, Insurance Code, is amended to read as follows:

Art. 3.95-1. DEFINITIONS. In this subchapter:

(1) "Board" means the Texas Department [~~State Board~~] of Insurance or the commissioner, as appropriate.

(2) "Commissioner" means the commissioner of insurance.

(3) "Creditable coverage" means coverage described by Article 3.95-1.5 of this code.

(4) "Employee welfare benefit plan" has the meaning assigned by Section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1002(1)).

(5) [(4)] "Fully insured multiple employer welfare arrangement" means a multiple employer welfare arrangement that provides benefits to its participating employees and beneficiaries for which 100 percent of the liability has been assumed by an insurance company authorized to do business in this state.

(6) "Health benefit plan" means a health benefit plan described by Article 3.95-1.6 of this code.

(7) "Health status related factor" means:

(A) health status;

(B) medical condition, including both physical and mental illness;

(C) claims experience;

(D) receipt of health care;

(E) medical history;

(F) genetic information;

(G) evidence of insurability, including conditions arising out of acts of family violence; and

(H) disability.

(8) "Late-participating employee" means an employee described by Article 3.95-1.7 of this code.

(9) [(5)] "Multiple employer welfare arrangement" has the meaning assigned by Section 3(40) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1002(40)) to describe an entity which meets either or both of the following criteria:

(A) one or more of the employer members in the multiple employer welfare arrangement is either domiciled in this state or has its principal headquarters or principal administrative office in this state; or

(B) the multiple employer welfare arrangement solicits an employer that is domiciled in this state or has its principal headquarters or principal administrative office in this state.

(10) "Participation criteria" means any criteria or rules established by a large employer to determine the employees who are eligible for enrollment, including continued enrollment, under the terms of a health benefit plan. Such criteria or rules may not be based on health status related factors.

(11) "Preexisting condition provision" means a provision that denies, excludes, or limits coverage for a disease or condition for a specified period after the effective date of coverage.

(12) "Waiting period" means a period established by a multiple employer welfare arrangement that must pass before an individual who is a potential participating employee in a health benefit plan is eligible to be covered for benefits.

SECTION 4.02. Subchapter I, Chapter 3, Insurance Code, is amended by adding Articles 3.95-1.5, 3.95-1.6, and 3.95-1.7 to read as follows:

Art. 3.95-1.5. CREDITABLE COVERAGE. (a) An individual's coverage is creditable for purposes of this subchapter if the coverage is provided under:

(1) a self-funded or self-insured employee welfare benefit plan that provides health benefits and that is established in accordance with the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.);

(2) a group health benefit plan provided by a health insurance carrier or health maintenance organization;

(3) an individual health insurance policy or evidence of coverage;

(4) Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. Section 1395c et seq.);

(5) Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.), other than coverage consisting solely of benefits under Section 1928 of that Act (42 U.S.C. Section 1396s);

(6) Chapter 55, Title 10, United States Code (10 U.S.C. Section 1071 et seq.);

(7) a medical care program of the Indian Health Service or of a tribal organization;

(8) a state or political subdivision health benefits risk pool;

(9) a health plan offered under Chapter 89, Title 5, United States Code (5 U.S.C. Section 8901 et seq.);

(10) a public health plan as defined by federal regulations; or

(11) a health benefit plan under Section 5(e), Peace Corps Act (22 U.S.C. Section 2504(e)).

(b) Creditable coverage does not include:

(1) accident-only or disability income insurance, or a combination of accident-only and disability income insurance;

(2) coverage issued as a supplement to liability insurance;

(3) liability insurance, including general liability insurance and automobile liability insurance;

(4) workers' compensation or similar insurance;

(5) automobile medical payment insurance;

(6) credit-only insurance;

(7) coverage for on-site medical clinics;

(8) other coverage that is:

(A) similar to the coverage described by this subsection under which benefits for medical care are secondary or incidental to other insurance benefits; and

(B) specified in federal regulations;

(9) coverage that provides limited-scope dental or vision benefits;

(10) long-term care coverage or benefits, nursing home care coverage or benefits, home health care coverage or benefits, community-based care coverage or benefits, or any combination of those coverages or benefits;

(11) coverage that provides other limited benefits specified by federal regulations;

(12) coverage for a specified disease or illness;

(13) hospital indemnity or other fixed indemnity insurance; or

(14) Medicare supplemental health insurance as defined under Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss), coverage supplemental to the coverage provided under Chapter 55, Title 10, United States Code (10 U.S.C. Section 1071 et seq.), and similar supplemental coverage provided under a group plan.

Art. 3.95-1.6. HEALTH BENEFIT PLAN. (a) For purposes of this subchapter, the term "health benefit plan" includes any plan that provides benefits for health care services.

(b) A health benefit plan does not include:

(1) accident-only or disability income insurance or a combination of accident-only and disability income insurance;

(2) credit-only insurance;

(3) disability insurance;

(4) coverage for a specified disease or illness;

(5) Medicare services under a federal contract;

(6) Medicare supplement and Medicare Select policies regulated in accordance with federal law;

(7) long-term care coverage or benefits, nursing home care coverage or benefits, home health care coverage or benefits, community-based care coverage or benefits, or any combination of those coverages or benefits;

(8) coverage that provides limited-scope dental or vision benefits;

(9) coverage provided by a single service health maintenance organization;

(10) coverage issued as a supplement to liability insurance;

(11) workers' compensation or similar insurance;

- (12) automobile medical payment insurance coverage;
- (13) jointly managed trusts authorized under 29 U.S.C. Section 141 et seq. that contain a plan of benefits for employees that is negotiated in a collective bargaining agreement governing wages, hours, and working conditions of the employees that is authorized under 29 U.S.C. Section 157;
- (14) hospital indemnity or other fixed indemnity insurance;
- (15) reinsurance contracts issued on a stop-loss, quota-share, or similar basis;
- (16) short-term major medical contracts;
- (17) liability insurance, including general liability insurance and automobile liability insurance;
- (18) other insurance coverage that is:
 - (A) similar to the coverage described by this subsection under which benefits for medical care are secondary or incidental to other insurance benefits; and
 - (B) specified in federal regulations;
- (19) coverage for on-site medical clinics; or
- (20) coverage that provides other limited benefits specified by federal regulations.

Art. 3.95-1.7. LATE-PARTICIPATING EMPLOYEE. (a) An individual is a late-participating employee if the individual:

- (1) is an employee or dependent eligible for enrollment; and
- (2) requests enrollment in a participating employer's health benefit plan after the expiration of the initial enrollment period established under the terms of the first plan for which that employee or dependent was eligible through the participating employer and after the expiration of an open enrollment period under Article 3.95-4.1 of this code.

(b) An individual is not a late-participating employee if:

- (1) the individual:
 - (A) was covered under another health benefit plan or self-funded employer health benefit plan at the time the individual was eligible to enroll;
 - (B) declines in writing, at the time of the initial eligibility, stating that coverage under another health benefit plan or self-funded employer health benefit plan was the reason for declining enrollment;
 - (C) has lost coverage under another health benefit plan or self-funded employer health benefit plan as a result of:
 - (i) the termination of employment;
 - (ii) the reduction in the number of hours of employment;
 - (iii) the termination of the other plan's coverage;
 - (iv) the termination of contributions toward the premium made by the employer; or
 - (v) the death of a spouse or divorce; and
 - (D) requests enrollment not later than the 31st day after the date on which coverage under the other health benefit plan or self-funded employer health benefit plan terminates;
- (2) the individual is employed by an employer who offers multiple

health benefit plans and the individual elects a different health benefit plan during an open enrollment period;

(3) a court has ordered coverage to be provided for a spouse under a covered employee's plan and request for enrollment is made not later than the 31st day after the date the court order is issued; or

(4) a court has ordered coverage to be provided for a child under a covered employee's plan and the request for enrollment is made not later than the 31st day after the date the employer receives the court order.

SECTION 4.03. Subchapter I, Chapter 3, Insurance Code, is amended by adding Articles 3.95-4.1 through 3.95-4.10 to read as follows:

Art. 3.95-4.1. COVERAGE REQUIREMENTS. (a) A multiple employer welfare arrangement may refuse to provide coverage to an employer in accordance with the multiple employer welfare arrangement's underwriting standards and criteria. However, on issuance of coverage to an employer, each multiple employer welfare arrangement shall provide coverage to the employees who meet the participation criteria established by the terms of the plan document without regard to an individual's health status related factors. The participation criteria may not be based on health status related factors.

(b) The multiple employer welfare arrangement shall accept or reject the entire group of individuals who meet the participation criteria and who choose coverage and may exclude only those employees or dependents who have declined coverage. The multiple employer welfare arrangement may charge premiums in accordance with Article 3.95-4.6 of this code to the group of employees or dependents who meet the participation criteria and who do not decline coverage.

(c) The multiple employer welfare arrangement shall obtain a written waiver for each employee who meets the participation criteria and who declines coverage under a health plan offered to an employer. The waiver must ensure that the employee was not induced or pressured into declining coverage because of the employee's health status related factors.

(d) A multiple employer welfare arrangement may not provide coverage to an employer or the employees of an employer if the multiple employer welfare arrangement or an agent for the multiple employer welfare arrangement knows that the employer has induced or pressured an employee who meets the participation criteria or a dependent of the employee to decline coverage because of that individual's health status related factors.

(e) A multiple employer welfare arrangement may require an employer to meet minimum contribution or participation requirements as a condition of issuance and renewal in accordance with the terms of the multiple employer welfare arrangement's plan document. Those requirements shall be stated in the plan document and shall be applied uniformly to each employer offered or issued coverage by the multiple employer welfare arrangement in this state.

(f) The initial enrollment period for employees meeting the participation criteria must be at least 31 days, with a 31-day annual open enrollment period. Such enrollment period shall consist of an entire calendar month, beginning on the first day of the month and ending on the last day of the month. If the month is February, the period shall last through March 2nd.

(g) If dependent coverage is offered to participating employees under the

terms of a multiple employer welfare arrangement's plan document, the initial enrollment period for the dependents must be at least 31 days, with a 31-day annual open enrollment period.

(h) A multiple employer welfare arrangement may establish a waiting period during which a new employee is not eligible for coverage in accordance with the terms of the plan document.

(i) A new employee who meets the participation criteria may not be denied coverage if the application for coverage is received by the multiple employer welfare arrangement not later than the 31st day after the later of:

(1) the date on which the employment begins; or

(2) the date on which the waiting period established under this article expires.

(j) If dependent coverage is offered under the terms of a multiple employer welfare arrangement's plan document, a dependent of a new employee meeting the participation criteria established by the multiple employer welfare arrangement may not be denied coverage if the application for coverage is received by the multiple employer welfare arrangement not later than the 31st day after the later of:

(1) the date on which the employment begins;

(2) the date on which the waiting period established under this article expires; or

(3) the date on which the dependent becomes eligible for enrollment.

(k) A late-participating employee may be excluded from coverage until the next annual open enrollment period and may be subject to a 12-month preexisting condition provision as described by Article 3.95-4.8 of this code. The period during which a preexisting condition provision applies may not exceed 18 months from the date of the initial application.

(l) A multiple employer welfare arrangement may not exclude an employee who meets the participation criteria or an eligible dependent, including a late-participating employee, who would otherwise be covered.

(m) A multiple employer welfare arrangement's plan document may not, by use of a rider or amendment applicable to a specific individual, limit or exclude coverage by type of illness, treatment, medical condition, or accident, except for preexisting conditions as permitted under Article 3.95-4.8 of this code.

Art. 3.95-4.2. DEPENDENT CHILDREN. (a) A multiple employer welfare arrangement's plan document may not limit or exclude initial coverage of a newborn child of a participating employee. Any coverage of a newborn child of a participating employee under this subsection terminates on the 32nd day after the date of the birth of the child unless:

(1) dependent children are eligible for coverage under the multiple employer welfare arrangement's plan document; and

(2) notification of the birth and any required additional premium are received by the multiple employer welfare arrangement not later than the 31st day after the date of birth.

(b) If dependent children are eligible for coverage under the terms of a multiple employer welfare arrangement's plan document, the plan document may not limit or exclude initial coverage of an adopted child of a participating

employee. A child is considered to be the child of a participating employee if the participating employee is a party in a suit in which the adoption of the child by the participating employee is sought.

(c) If dependent children are eligible for coverage under the terms of a multiple employer welfare arrangement's plan document, an adopted child of a participating employee may be enrolled, at the option of the participating employee, within either:

(1) 31 days after the participating employee is a party in a suit for adoption; or

(2) 31 days of the date the adoption is final.

(d) Coverage of an adopted child of an employee under this article terminates unless notification of the adoption and any required additional premiums are received by the multiple employer welfare arrangement not later than either:

(1) the 31st day after the participating employee becomes a party in a suit in which the adoption of the child by the participating employee is sought; or

(2) the 31st day after the date of the adoption.

Art. 3.95-4.3. RENEWABILITY OF COVERAGE; CANCELLATION.

(a) Except as provided by Article 3.95-4.4 of this code, a multiple employer welfare arrangement shall renew the health benefit plan, at the option of the employer, unless:

(1) a contribution has not been paid as required by the terms of the plan;

(2) the employer has committed fraud or intentional misrepresentation of a material fact;

(3) the employer has not complied with the terms of the health benefit plan document;

(4) the plan is ceasing to offer any coverage in a geographic area; or

(5) there has been a failure to:

(A) meet the terms of an applicable collective bargaining agreement or other agreement requiring or authorizing contributions to the plan;

(B) renew the agreement; or

(C) employ employees covered by the agreement.

(b) A multiple employer welfare arrangement may refuse to renew the coverage of a participating employee or dependent for fraud or intentional misrepresentation of a material fact by that individual.

(c) A multiple employer welfare arrangement may not cancel a health benefit plan except for the reasons specified for refusal to renew under Subsection (a) of this article. A multiple employer welfare arrangement may not cancel the coverage of a participating employee or dependent except for the reasons specified for refusal to renew under Subsection (b) of this article.

Art. 3.95-4.4. REFUSAL TO RENEW. (a) A multiple employer welfare arrangement may elect to refuse to renew all health benefit plans delivered or issued for delivery by the multiple employer welfare arrangement in this state. The multiple employer welfare arrangement shall notify the commissioner of the election not later than the 180th day before the date coverage under the first health benefit plan terminates under this subsection.

(b) The multiple employer welfare arrangement shall notify each affected employer not later than the 180th day before the date on which coverage terminates for that employer.

(c) A multiple employer welfare arrangement that elects under Subsection (a) of this article to refuse to renew all health benefit plans in this state may not write a health benefit plan in this state before the fifth anniversary of the date on which notice is delivered to the commissioner under Subsection (a) of this article.

(d) A multiple employer welfare arrangement may elect to discontinue a plan only if the multiple employer welfare arrangement:

(1) provides notice to each employer of the discontinuation before the 90th day preceding the date of the discontinuation of the plan;

(2) offers to each employer the option to purchase another plan offered by the multiple employer welfare arrangement; and

(3) acts uniformly without regard to the claims experience of the employer or any health status related factor of participating employees or dependents or new employees or dependents who may become eligible for the coverage.

Art. 3.95-4.5. NOTICE TO COVERED PERSONS. (a) Not later than the 30th day before the date on which termination of coverage is effective, a multiple employer welfare arrangement that cancels or refuses to renew coverage under a health benefit plan under Article 3.95-4.3 or 3.95-4.4 of this code shall notify the employer of the cancellation or refusal to renew. It is the responsibility of the employer to notify participating employees of the cancellation or refusal to renew the coverage.

(b) The notice provided under this article is in addition to any other notice required by Article 3.95-4.3 or 3.95-4.4 of this code.

Art. 3.95-4.6. PREMIUM RATES; ADJUSTMENTS. (a) A multiple employer welfare arrangement may not charge an adjustment to premium rates for individual employees or dependents for health status related factors or duration of coverage. Any adjustment must be applied uniformly to the rates charged for all participating employees and dependents of participating employees of the employer. This subsection does not restrict the amount that an employer may be charged for coverage.

(b) A multiple employer welfare arrangement may establish premium discounts, rebates, or a reduction in otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention. A discount, rebate, or reduction established under this subsection does not violate Section 4(8), Article 21.21, of this code.

Art. 3.95-4.7. FAIR MARKETING. (a) On request, each employer purchasing health benefit plans shall be given a summary of the plans for which the employer is eligible.

(b) The department may require periodic reports by multiple employer welfare arrangements and agents regarding the health benefit plans issued by the multiple employer welfare arrangements. The reporting requirements shall comply with federal law and regulations.

Art. 3.95-4.8. PREEXISTING CONDITION PROVISIONS. (a) A preexisting condition provision in a multiple employer welfare arrangement's

plan document may not apply to an expense incurred on or after the expiration of the 12 months following the initial effective date of coverage of the participating employee, dependent, or late-participating employee.

(b) A preexisting condition provision in a multiple employer welfare arrangement's plan document may not apply to coverage for a disease or condition other than a disease or condition for which medical advice, diagnosis, care, or treatment was recommended or received during the six months before the earlier of:

(1) the effective date of coverage; or

(2) the first day of the waiting period.

(c) A multiple employer welfare arrangement shall not treat genetic information as a preexisting condition described by Subsection (b) of this article in the absence of a diagnosis of the condition related to the information.

(d) A multiple employer welfare arrangement shall not treat a pregnancy as a preexisting condition described by Subsection (b) of this article.

(e) A preexisting condition provision in a multiple employer welfare arrangement's plan document may not apply to an individual who was continuously covered for an aggregate period of 12 months under creditable coverage that was in effect up to a date not more than 63 days before the effective date of coverage under the health benefit plan, excluding any waiting period.

(f) In determining whether a preexisting condition provision applies to an individual covered by a multiple employer welfare arrangement's plan document, the multiple employer welfare arrangement shall credit the time the individual was covered under previous creditable coverage if the previous coverage was in effect at any time during the 12 months preceding the effective date of coverage under the multiple employer welfare arrangement. If the previous coverage was issued under a health benefit plan, any waiting period shall also be credited to the preexisting condition provision period.

(g) This article does not preclude application of any waiting period applicable to all new participating employees under the health benefit plan in accordance with the terms of the multiple employer welfare arrangement's plan document.

Art. 3.95-4.9. WRITTEN STATEMENT OF DENIAL, CANCELLATION, OR REFUSAL TO RENEW. Denial by a multiple employer welfare arrangement of an application for coverage from an employer or cancellation or refusal to renew must be in writing and must state the reason or reasons for the denial, cancellation, or refusal.

Art. 3.95-4.10. THIRD-PARTY ADMINISTRATOR. If a multiple employer welfare arrangement enters into an agreement with a third-party administrator to provide administrative, marketing, or other services related to the offering of health benefit plans to employers in this state, the third-party administrator is subject to this subchapter.

SECTION 4.04. Article 3.95-8, Insurance Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Each multiple employer welfare arrangement transacting business in this state shall file the following with the commissioner on forms approved by the commissioner:

(1) within 90 days of the end of the fiscal year, financial statements audited by a certified public accountant; ~~and~~

(2) within 90 days of the end of the fiscal year, an actuarial opinion prepared and certified by an actuary who is not an employee of the multiple employer welfare arrangement and who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.); ~~and~~

(3) any modified terms of a plan document along with a certification from the trustees that any changes are in compliance with the minimum requirements of this subchapter. The actuarial opinion shall include:

(A) a description of the actuarial soundness of the multiple employer welfare arrangement, including any recommended actions that the multiple employer welfare arrangement should take to improve its actuarial soundness;

(B) the recommended amount of cash reserves the multiple employer welfare arrangement should maintain which shall not be less than the greater of 20 percent of the total contributions in the preceding plan year or 20 percent of the total estimated contributions for the current plan year; cash reserves shall be calculated with proper actuarial regard for known claims, paid and outstanding, a history of incurred but not reported claims, claims handling expenses, unearned premium, an estimate for bad debts, a trend factor, and a margin for error; cash reserves required by this article shall be maintained in cash or federally guaranteed obligations of less than five-year maturity that have a fixed or recoverable principal amount or such other investments as the commissioner or board may authorize by rule; and

(C) the recommended level of specific and aggregate stop-loss insurance the multiple employer welfare arrangement should maintain.

(e) If the commissioner determines that a multiple employer welfare arrangement does not comply with the requirements established in this subchapter, the commissioner may order the multiple employer welfare arrangement to correct the deficiencies. If the multiple employer welfare arrangement does not initiate immediate corrective action, the commissioner may take any action against the multiple employer welfare arrangement that is authorized by this code.

SECTION 4.05. Article 3.95-15, Insurance Code, is amended by amending the article heading and Subsection (a) to read as follows:

Art. 3.95-15. PROCEEDINGS BEFORE COMMISSIONER ~~[THE BOARD]~~ OF INSURANCE; RULES. (a) The commissioner ~~[board]~~ may, on notice and opportunity for all interested persons to be heard, issue such rules, regulations, and orders as are reasonably necessary to augment and carry out the provisions of this subchapter. The commissioner shall adopt rules as necessary to meet the minimum requirements of federal law and regulations.

PART 5. EFFECTIVE DATE; TRANSITION; EMERGENCY

SECTION 5.01. This Act applies only to an insurance policy, evidence of coverage, contract, or other document establishing coverage under a health benefit plan that is delivered, issued for delivery, or renewed on or after the effective date of this Act. An insurance policy, evidence of coverage, contract,

or other document establishing coverage under a health benefit plan that is delivered, issued for delivery, or renewed before the effective date of this Act is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

SECTION 5.02. This Act takes effect July 1, 1997.

SECTION 5.03. 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 according to its terms, and it is so enacted.

Representative Averitt moved to adopt the conference committee report on **HB 1212**.

A record vote was requested.

The motion prevailed by (Record 581): 135 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Delisi; Flores; Hupp.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Alvarado; Garcia; Hilderbran; Kubiak; Van de Putte.

STATEMENTS OF VOTE

When Record No. 581 was taken, my vote failed to register. I would have voted yes.

Hilderbran

When Record No. 581 was taken, I was temporarily out of the house chamber. I would have voted yes.

Kubiak

SB 361 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gray submitted the conference committee report on **SB 361**.

Representative Gray moved to adopt the conference committee report on **SB 361**.

The motion prevailed. (Finnell recorded voting no)

SJR 33 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the conference committee report on **SJR 33**.

(Delisi now present)

Representative Gallego moved to adopt the conference committee report on **SJR 33**.

A record vote was requested.

The motion prevailed by (Record 582): 131 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alvarado; Averitt; Bailey; Berlanga; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; 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; Isett; Jackson; Janek; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Price; Rabuck; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Van de Putte; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Flores; Hupp.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Alexander; Bonnen; Garcia; Junell; Longoria; Place; Ramsay; Smithee; Stiles; Uher.

**HB 196 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 196, A bill to be entitled An Act relating to the issuance of a contact lens prescription and a patients' right of access to that prescription; providing penalties.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 196** by (Record 583): 133 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Corte; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; 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; Isett; Jackson; Janek; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Shields; Siebert; Smith; Solis; Solomons; Staples; Stiles; Swinford; Talton; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Flores; Hupp.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Alexander; Coleman; Garcia; Junell; McReynolds; Serna; Smithee; Telford.

Senate Committee Substitute

CSHB 196, A bill to be entitled An Act relating to the issuance of a contact lens prescription and a patient's right of access to that prescription; providing penalties.

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

SECTION 1. SHORT TITLE. This Act may be cited as the Texas Contact Lens Prescription Act.

SECTION 2. DEFINITIONS. In this Act:

- (1) "Board" means the Texas Board of Health.
- (2) "Contact lens prescription" means a written prescription that contains the following information:
 - (A) the patient's name;
 - (B) the date the prescription was issued;
 - (C) the contact lens manufacturer, if needed;
 - (D) the expiration date of the prescription as provided by Section 3(g) of this Act;
 - (E) the original signature of the physician, optometrist, or therapeutic optometrist;
 - (F) for disposable contact lenses, the total number of lenses authorized to be issued under the prescription and the recommended lens replacement interval;

(G) specification information required by rules of the Texas Optometry Board with regard to a contact lens prescription issued by an optometrist; and

(H) specification information required by rules of the Texas State Board of Medical Examiners with regard to a contact lens prescription issued by a physician.

(3) "Department" means the Texas Department of Health.

(4) "Disposable contact lenses" means soft contact lenses that:

(A) are dispensed in sealed packages;

(B) are sterilized and sealed by the manufacturer; and

(C) according to the wearing instructions of the physician, optometrist, or therapeutic optometrist, suggest the lenses be replaced at an interval of less than three months.

(5) "Optician" means a person, other than a physician, optometrist, therapeutic optometrist, or pharmacist who is in the business of dispensing contact lenses.

(6) "Optometrist" means a person licensed to practice optometry or therapeutic optometry by the Texas Optometry Board.

(7) "Pharmacist" means a person licensed to practice pharmacy by the Texas State Board of Pharmacy.

(8) "Physician" means a person licensed to practice medicine by the Texas State Board of Medical Examiners.

(9) "Therapeutic optometrist" means a person licensed to practice therapeutic optometry by the Texas Optometry Board.

SECTION 3. MANDATORY RELEASE OF CONTACT LENS PRESCRIPTION. (a) Except as provided by Subsection (d) of this section, each physician, optometrist, or therapeutic optometrist who performs an eye examination and fits a patient for contact lenses shall, on request, prepare, and give a contact lens prescription to the patient. The physician, optometrist, or therapeutic optometrist may exclude categories of contact lenses if the exclusion is clinically indicated. The physician, optometrist, or therapeutic optometrist may not charge the patient a fee in addition to the examination fee and fitting fee as a condition for giving a contact lens prescription to the patient.

(b) If a patient requests a contact lens prescription during an initial or annual examination, the physician, optometrist, or therapeutic optometrist must prepare and give the contact lens prescription to the patient at the time the physician, optometrist, or therapeutic optometrist determines the parameters of the prescription.

(c) If the patient does not request or receive an original contact lens prescription during the patient's initial or annual examination, the patient may request the patient's contact lens prescription at any time during which the prescription is valid. On receipt of a request, the physician, optometrist, or therapeutic optometrist shall provide the patient with a contact lens prescription. If the patient requests the physician, optometrist, or therapeutic optometrist to deliver the prescription to the patient or to another person, the physician, optometrist, or therapeutic optometrist may charge the cost of delivery to the patient.

(d) A physician, optometrist, or therapeutic optometrist may refuse to give a contact lens prescription to a patient if:

(1) the patient's ocular health presents a contraindication for contact lenses;

(2) refusal is warranted due to potential harm to the patient's ocular health;

(3) the patient has not paid for the examination and fitting or has not paid for other financial obligations to the physician, optometrist, or therapeutic optometrist if the patient would have been required to make an immediate or similar payment if the examination revealed that ophthalmic goods were not required;

(4) the patient has an existing medical condition that indicates that the patient's ocular health would be damaged if the prescription were released to the patient or if further monitoring of the patient is needed; or

(5) the request is made after the first anniversary of the date of the patient's last eye examination.

(e) Subsection (d) of this section does not prohibit a physician, optometrist, or therapeutic optometrist from giving a patient the patient's contact lens prescription.

(f) A physician, optometrist, or therapeutic optometrist may not condition the availability to a patient of an eye examination, a fitting for contact lenses, the issuance of a contact lens prescription, or any combination of those services on a requirement that the patient agree to purchase contact lenses or other ophthalmic goods from the physician, optometrist, or therapeutic optometrist or from a specific ophthalmic dispenser.

(g) Unless a shorter prescription period is warranted by the patient's ocular health or by potential harm to the patient's ocular health, a physician, optometrist, or therapeutic optometrist may not issue a contact lens prescription that expires before the first anniversary of the date the patient's prescription parameters are determined. The physician, optometrist, or therapeutic optometrist may extend the expiration date of the prescription without completing another eye examination.

(h) If a physician, optometrist, or therapeutic optometrist refuses to give a patient the patient's contact lens prescription for a reason permitted under Subsection (d) of this section or writes the prescription for a period of less than one year, the physician, optometrist, or therapeutic optometrist must:

(1) give the patient a verbal explanation of the reason for the action at the time of the action; and

(2) maintain in the patient's records a written explanation of the reason.

SECTION 4. REGULATION OF PERSONS FILLING CONTACT LENS PRESCRIPTIONS. (a) A person may not fill a contact lens prescription in this state or sell, deliver, or dispense contact lenses to any person in this state except as provided by this Act.

(b) A person, other than the prescribing physician, optometrist, or therapeutic optometrist, may not sell, deliver, or dispense contact lenses to a patient or other consumer in this state unless the person receives an original contact lens prescription that conforms with the requirements of this Act.

(c) Contact lenses may only be dispensed by the following persons:

(1) a physician, optometrist, or therapeutic optometrist;

(2) a pharmacist; or

(3) an optician who holds a valid contact lens dispensing permit issued under this Act.

(d) Except as provided by this Act, a contact lens prescription may not be modified.

(e) If a physician notes on a spectacle prescription "fit for contacts" or similar language and has, as required by Section 9 of this Act, specifically delegated to a specific optician the authority to make the additional measurements and evaluations necessary to derive the information required for a fully written contact lens prescription, the optician may dispense contact lenses to the patient even though the prescription is less than a fully written contact lens prescription.

(f) A person who dispenses contact lenses under this Act from a contact lens prescription:

(1) must fill the prescription accurately without modification; and

(2) may not fill an expired prescription.

(g) If a patient presents a written contact lens prescription to be filled, but requests that less than the total number of lenses authorized by the prescription be dispensed, the person dispensing the lenses must note on the prescription the number of lenses actually dispensed, the number of lenses that remain eligible to be dispensed under the prescription, and the name, address, telephone number, and license or permit number of the person dispensing the lenses. The notation is a permanent and valid modification of the prescription. The person dispensing the lenses shall make a photocopy of the signed prescription, as modified, to be maintained in the person's records, and shall return the original signed prescription to the patient in order for the patient to have the additional lenses dispensed elsewhere if the patient chooses. The copy of the prescription shall be kept in the person's records as if it were the original signed prescription. Once a prescription has been completely filled, the person dispensing the contact lenses shall retain the original prescription in the person's records until the fifth anniversary of the date the prescription was completely filled.

(h) If a patient needs an emergency refill of the patient's contact lens prescription, a physician, optometrist, or therapeutic optometrist may telephone or fax a contact lens prescription to a person authorized to fill contact lenses under this Act in order for the person to fill the prescription. The person filling the prescription shall maintain a copy of the fax or telephone record as if the record were an originally signed prescription. The fax or telephone record must include the name, address, telephone number, and license number of the physician, optometrist, or therapeutic optometrist.

(i) On request by a patient, a prescribing physician, optometrist, or therapeutic optometrist shall authorize at least once a two-month extension of the patient's contact lens prescription. The extension may be made in accordance with the provisions for emergency refills in Subsection (h) of this section.

(j) The board may adopt rules that permit a contact lens prescription required to be maintained under this Act to be scanned into a computer and the original paper prescription destroyed.

SECTION 5. CONTACT LENS DISPENSING PERMIT. (a) Before an optician may dispense contact lenses to a person in this state, the optician must obtain a contact lens dispensing permit from the board.

(b) The board shall issue a permit to an applicant who:

(1) agrees in writing to comply with all state and federal laws and regulations regarding the sale, delivery, or dispensing of contact lenses;

(2) has not had a contact lens dispensing permit revoked or canceled for cause within the 24-month period preceding the application date;

(3) provides the board with the trade names and addresses of all locations in which the optician intends to conduct business;

(4) provides the board with other information that the board may reasonably require; and

(5) pays the required permit fee prescribed by the board.

(c) A corporation or other business entity that dispenses contact lenses to a person in this state:

(1) must obtain a contact lens dispensing permit in the entity's own name; and

(2) may not dispense contact lenses to a person in this state through an employee or other person who holds a contact lens dispensing permit.

(d) A corporation or other business entity that has not less than 10 locations may obtain a single permit for the entity and its employees. An employee of a corporation or business entity with a permit under this subsection is not required to obtain a separate permit.

(e) The board may not require an applicant for renewal of a permit to provide more information than is required for issuance of an original permit.

SECTION 6. ENFORCEMENT; OFFENSE. (a) The board may suspend or revoke a person's contact lens dispensing permit, place the permit holder on probation, or impose an administrative penalty of not more than \$1,000 for a violation of this Act. A course of conduct that involves more than one prescription shall be considered a separate violation for each prescription filled in violation of this Act.

(b) Except as provided by this section, the board, the attorney general, or the district or county attorney for the county in which an alleged violation of this Act occurs, shall, on receipt of a verified complaint from any person, enforce this Act and the rules adopted under this Act by initiating appropriate administrative or judicial proceedings in a court of competent jurisdiction.

(c) A person commits an offense if the person violates this Act. An offense under this Act is a Class B misdemeanor.

(d) The attorney general or an attorney representing the state may bring an action in a court of competent jurisdiction to enjoin or restrain a person from violating this Act or a rule adopted under this Act.

(e) In addition to granting injunctive or other relief provided by law, a court may impose a civil penalty for a violation of this Act or a rule adopted under this Act.

(f) With regard to a violation of this Act by a physician, the Texas State Board of Medical Examiners is the agency responsible for enforcing this Act. A violation of this Act by a physician shall be considered a violation of the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

(g) With regard to a violation of this Act by an optometrist or a therapeutic optometrist, the Texas Optometry Board is the agency responsible for enforcing this Act. A violation of this Act by an optometrist or a therapeutic optometrist shall be considered a violation of the Texas Optometry Act (Article 4552-1.01 et seq., Vernon's Texas Civil Statutes).

(h) With regard to a violation of this Act by a pharmacist, the Texas State Board of Pharmacy is the agency responsible for enforcing this Act. A violation of this Act by a pharmacist shall be considered a violation of the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes).

SECTION 7. PERMIT FEES; RENEWAL. (a) The annual permit fee for a contact lens dispensing permit is:

- (1) \$10 for an optician who has registered with the department;
- (2) \$25 for an optician who has not registered with the department;

and

(3) \$100 for a corporation or other business entity described by Section 5(c) of this Act.

(b) After January 1, 1998, the board may adopt annual permit fees in amounts to reflect the actual cost of administering the provisions of this Act that relate to the regulation of the holders of contact lens dispensing permits.

(c) The board shall deposit all amounts received under this Act in a special account in the general revenue fund known as the contact lens dispensing permit account. Money in that account may only be appropriated to the department to be used by the department for the administration of this Act.

(d) A contact lens dispensing permit issued under this Act is valid for one year. The board may temporarily extend or shorten the term of any particular permit to provide for the staggered renewal of permits or for the annual renewal of all permits on the same date. Permit fees shall be prorated accordingly to accomplish this purpose.

(e) To renew a permit, a permit holder must submit an application for renewal in the manner prescribed by board rule and pay the annual renewal fee prescribed by the board.

SECTION 8. EMPLOYEES OF PHYSICIANS, OPTOMETRISTS, THERAPEUTIC OPTOMETRISTS, AND PHARMACISTS. An employee of a physician, optometrist, therapeutic optometrist, or pharmacist is not required to obtain a permit under this Act if the employee performs contact lens dispensing services under the direct supervision and control of the physician, optometrist, therapeutic optometrist, or pharmacist.

SECTION 9. PHYSICIAN'S PRESCRIPTIONS; DELEGATION. (a) This Act does not prevent, limit, or restrict a physician from treating or prescribing for the physician's patients or from directing or instructing others under the physician's control or supervision who assist those patients according to specific directions, orders, instructions, or prescriptions.

(b) If a physician's directions, instructions, orders, or prescriptions are to be performed or filled by an optician who is independent of the physician's office, the directions, instructions, orders, or prescriptions must be:

- (1) in writing;
- (2) of a scope and content and communicated to the optician in a form

and manner that, in the professional judgment of the physician, best serves the health, safety, and welfare of the physician's patients; and

(3) in a form and detail consistent with the particular optician's skill and knowledge.

(c) A person holding a contact lens dispensing permit under this Act may take measurements of the eye or cornea and may evaluate the physical fit of lenses for a particular patient of a physician if the physician has delegated in writing those responsibilities with regard to that specific patient to the contact lens dispenser in accordance with this section and Section 5.17, Texas Optometry Act (Article 4552-5.17, Vernon's Texas Civil Statutes).

SECTION 10. PUBLIC INFORMATION. The board shall prepare and provide to the public and appropriate state agencies information regarding the release of contact lens prescriptions. The board may adopt rules as necessary to implement this section.

SECTION 11. LIABILITY. (a) A contact lens prescription may not contain, and a physician, optometrist, or therapeutic optometrist may not require a patient to sign, a form or notice that waives or disclaims the liability of the physician, optometrist, or therapeutic optometrist for the accuracy of:

(1) the eye examination on which a contact lens prescription furnished to the patient is based; or

(2) the contact lens prescription provided to the patient.

(b) A physician, optometrist, or therapeutic optometrist is not liable for any subsequent use of a contact lens prescription by a patient if the physician, optometrist, or therapeutic optometrist does not reexamine the patient, and the patient's condition, age, general health, and susceptibility to an adverse reaction caused by or related to the use of contact lenses or other factors result in the patient no longer being a proper candidate for the contact lens or lenses prescribed.

SECTION 12. AMENDMENT. Section 5.21, Texas Optometry Act (Article 4552-5.21, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) This section does not affect the right of a patient under the Texas Contact Lens Prescription Act to have access to the patient's prescription for contact lenses.

SECTION 13. EFFECTIVE DATE; TRANSITION. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately.

(b) Sections 3, 4, 5, and 6 of this Act take effect January 1, 1998.

SECTION 14. 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 according to its terms, and it is so enacted.

HB 328 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 328, A bill to be entitled An Act relating to an exemption to the licensing requirements for irrigators.

(Hupp now present)

On motion of Representative Kamel, the house concurred in the senate amendments to **HB 328** by (Record 584): 135 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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; West; Williams; Williamson; Wilson; Wise; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Flores.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Alexander; Alvarado; Garcia; Hirschi; Jones, D.; Junell; Smithee.

Senate Amendment No. 1

Amend **HB 328** as follows:

(1) Strike the words "or managed" on page 1, line 26 of the committee printing.

(2) Strike the words "or by an employee of the association or its managing agent," on page 1, lines 48-49 of the committee printing.

(3) Strike the words "a portion of the" on page 1, line 51 of the committee printing.

HB 580 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 580, A bill to be entitled An Act relating to enforcement of laws relating to parking by, or accessibility of facilities to, persons with disabilities.

Representative Coleman moved to discharge the conferees and concur in the senate amendments to **HB 580**.

The motion prevailed.

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

Amend **HB 580** in SECTION 8 of the bill, in the second sentence of new Subsection (h) of Section 5, Article 9102, Revised Statutes, by inserting "to which those standards apply" between "for the state" and "comply with" (page 6, line 11).

**HB 331 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 331, A bill to be entitled An Act relating to certain election processes and procedures.

On motion of Representative Danburg, the house concurred in the senate amendments to **HB 331**.

Senate Committee Substitute

CSHB 331, A bill to be entitled An Act relating to certain election processes and procedures.

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

SECTION 1. Section 2.002, Election Code, is amended by amending Subsections (a) and (g) and adding Subsection (h) to read as follows:

(a) Except as provided by Subsection (f) or (g), in an election requiring a plurality vote, if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held.

(g) A tying candidate may resolve the tie by filing with the authority described by Subsection (f) a written statement of withdrawal signed and acknowledged by the candidate. On receipt of the statement of withdrawal, the remaining candidate is the winner, and a second election or casting of lots is not held.

(h) This section does not apply to elective offices of the executive department specified by Article IV, Section 1, of the Texas Constitution.

SECTION 2. Section 2.028, Election Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), if [Hf] the candidates in a runoff election tie, they shall cast lots to determine the winner.

(c) A tying candidate may resolve the tie by filing with the presiding officer of the final canvassing authority a written statement of withdrawal signed and acknowledged by the candidate. On receipt of the statement of withdrawal, the remaining candidate is the winner, and a casting of lots is not held.

SECTION 3. Section 2.051, Election Code, is amended to read as follows:

Sec. 2.051. Applicability of Subchapter. (a) This subchapter applies only to an election for officers of a political subdivision other than a county in which write-in votes may be counted only for names appearing on a list of write-in candidates and in which:

(1) each candidate whose name is to appear on the ballot is unopposed, except as provided by Subsection (b); and

(2) no proposition is to appear on the ballot.

(b) In the case of an election in which any members of the political subdivision's governing body are elected from single-member districts, this subchapter applies to the election in a particular single-member district if:

(1) each candidate whose name is to appear on the ballot in that district is unopposed; and

(2) the requirements prescribed by Subsection (a) are otherwise met.

SECTION 4. Section 13.072, Election Code, is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

(c) Except as provided by Subsection (d) or (e), if the registrar determines that an application does not comply with Section 13.002 or does not indicate that the applicant is eligible for registration, the registrar shall reject the application.

(e) If the registrar determines that an application is incomplete, the registrar shall notify the applicant of that fact. If the applicant submits the required information not later than the third day after the date notice is received under this subsection, the registrar shall proceed with the review of the application.

SECTION 5. Section 13.143(e), Election Code, is amended to read as follows:

(e) If the 30th day before the date of an election is a Saturday, Sunday, or legal state or national holiday, an application [~~submitted by mail~~] is considered to be timely if it is submitted to the registrar on or before [the date indicated by the post office cancellation mark is] the next regular business day.

SECTION 6. Section 31.002(a), Election Code, is amended to read as follows:

(a) The secretary of state shall prescribe the design and content, consistent with this code, of the forms necessary for the administration of this code. The design and content must enhance the ability of a person to understand the applicable requirements and to physically furnish the required information in the space provided.

SECTION 7. Section 31.100(d), Election Code, is amended to read as follows:

(d) The county election officer may not be personally compensated for election services performed under an election services contract. A fee charged by the officer for general supervision of the election may not exceed 10 [five] percent of the total amount of the contract, but may not be less than \$75.

SECTION 8. Sections 32.002(a) and (b), Election Code, are amended to read as follows:

(a) The commissioners court[;] at its July term [~~each year,~~] shall appoint the election judges for each regular county election precinct.

(b) Judges appointed under Subsection (a) serve for a term of one year beginning on August 1 following the appointment, except that the commissioners court by order recorded in its minutes may provide for a term of two years.

SECTION 9. Sections 32.002(c) and (d), Election Code, are amended to read as follows:

(c) The presiding judge and alternate presiding judge must be affiliated or aligned with different political parties, subject to this subsection. Before July

of each year, the county chair of a political party whose candidate for governor received the highest or second highest number of votes in the county in the most recent gubernatorial general election shall submit in writing to the commissioners court a list of names of persons in order of preference for each precinct who are eligible for appointment as an election judge. The commissioners court shall appoint the first person meeting the applicable eligibility requirements from the list submitted in compliance with this subsection by the party with the highest number of votes in the precinct as the presiding judge and the first person meeting the applicable eligibility requirements from the list submitted in compliance with this subsection by the party with the second highest number of votes in the precinct as the alternate presiding judge. The commissioners court may reject the first list and make the appointments in the same manner from a second list if the persons whose names are submitted on the first list are determined not to meet the applicable eligibility requirements. If a list of names is not submitted in compliance with this subsection, the commissioners court shall appoint an eligible person who is affiliated or aligned with the appropriate party, if available.

(d) The commissioners court shall fill a vacancy in the position of election judge for the remainder of the unexpired term. An appointment to fill a vacancy may be made at any regular or special term of court. Not later than the 10th day after the date the vacancy occurs, the county clerk shall notify the county chair of the same political party with which the original judge was affiliated or aligned of a vacancy. Not later than the 20th day after notification of the vacancy, the county chair of the same political party with which the original judge was affiliated or aligned shall submit to the commissioners court in writing the name of a person who is eligible for the appointment. If a name is submitted in compliance with this subsection, the commissioners court shall appoint that person to the unexpired term. If a name is not submitted in compliance with this subsection, the commissioners court shall appoint an eligible person who is affiliated or aligned with the same party, if available.

~~[(d) The county clerk shall recommend a presiding judge and an alternate judge for each precinct and shall submit a list of the recommendations to the commissioners court. The clerk shall also recommend an appointee for each unexpired term. The court shall consider the clerk's recommendation before making an appointment.]~~

SECTION 10. Section 32.007, Election Code, is amended by amending Subsections (a) and (b) and adding Subsection (f) to read as follows:

(a) If neither the presiding judge nor the alternate presiding judge can serve in an election and their inability to serve is discovered so late that it is impracticable to fill the vacancy in the normal manner, the presiding officer of the appointing authority or the authority if a single officer shall appoint a replacement judge to preside at the election, subject to Subsection (f). If the appointing authority is unavailable, the authority responsible for distributing the supplies for the election shall appoint the replacement judge.

(b) If a person authorized to act as presiding judge is not present at the polling place at the time for opening the polls, on receiving information of the absence, the authority authorized to appoint a replacement under Subsection (a) shall investigate the absence and appoint a replacement judge, subject to

Subsection (f), unless the authority learns that a previously appointed judge will immediately report for duty.

(f) A person who is appointed as a replacement for a judge originally appointed under Section 32.002 must be affiliated or aligned with the same political party as was the original judge, if possible.

SECTION 11. Section 32.051, Election Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided by Subsection (b) or (e), to be eligible to serve as a judge of an election precinct, a person must:

(1) be a qualified voter of the precinct; and

(2) for a regular county election precinct for which an appointment is made by the commissioners court, satisfy any additional eligibility requirements prescribed by written order of the commissioners court.

(e) In a regular county election precinct for which an appointment is made by the commissioners court and in which a political party's candidate for governor received more than 85 percent of the vote in the most recent gubernatorial general election, the alternate presiding judge may be a qualified voter of another precinct in the county.

SECTION 12. Subchapter C, Chapter 32, Election Code, is amended by adding Section 32.0552 to read as follows:

Sec. 32.0552. INELIGIBILITY OF PERSON CONVICTED OF ELECTION OFFENSE. A person is ineligible to serve as an election judge or clerk in an election if the person has been finally convicted of an offense in connection with conduct directly attributable to an election.

SECTION 13. Section 32.091, Election Code, is amended to read as follows:

Sec. 32.091. COMPENSATION FOR SERVICES AT POLLING PLACE.

(a) An election judge or clerk is entitled to compensation for services rendered at a precinct polling place at an hourly rate not to exceed \$6. A judge or clerk may be compensated at that rate for services rendered under Section 62.014(c).

(b) A judge or clerk may not be paid for more than one hour of work before the polls open, except for payment made for work under Section 62.014(c). In a precinct in which voting machines are used, a judge or clerk may not be paid for more than two hours of work after the time for closing the polls or after the last voter has voted, whichever is later.

SECTION 14. Section 32.094(a), Election Code, is amended to read as follows:

(a) After each election, each presiding judge serving in the election shall prepare and sign, in duplicate, a statement containing the following information:

(1) the name and address of the presiding judge and each clerk who served under the judge [him];

(2) the number of hours that each election officer worked at the polling place or at another location under Section 62.014(c), excluding time for which payment may not be made; and

(3) the name of the election officer who delivered the election records, keys, and unused supplies, and, if more than one officer, the name of and the amount of compensation allocated to each officer.

SECTION 15. Section 33.002(a), Election Code, is amended to read as follows:

(a) Watchers may be appointed by each candidate whose name appears on the ballot or the list of declared write-in candidates in an election for:

(1) a public office other than the office of vice-president of the United States; or

(2) an office of a political party.

SECTION 16. Section 33.004(a), Election Code, is amended to read as follows:

(a) A group of registered voters may appoint watchers on behalf of a write-in candidate in an election in which a declaration of write-in candidacy is not required to be filed.

SECTION 17. Sections 33.006(b) and (c), Election Code, are amended to read as follows:

(b) A certificate of appointment must:

(1) be in writing and signed by the appointing authority or, for an appointment for a write-in candidate under Section 33.004, by each of the voters making the appointment;

(2) indicate the capacity in which the appointing authority is acting;

(3) state the name, residence address, and voter registration number of the appointee and be signed by the appointee;

(4) identify the election and the precinct polling place or other location at which the appointee is to serve;

(5) in an election on a measure, identify the measure if more than one is to be voted on and state which side of the measure the appointee represents; and

(6) contain an affidavit executed by the appointee stating that the appointee will not have possession of any mechanical or electronic means of recording images or sound while serving as a watcher.

(c) In addition to complying with Subsection (b), a certificate issued to a watcher appointed for a write-in candidate under Section 33.004 must:

(1) include the residence address and voter registration number of eligible signers in the required number;

(2) include the signed statement of the candidate, or a person who would be authorized to make appointments on the candidate's behalf if the candidate's name appeared on the ballot, that the appointment is made with the signer's consent; and

(3) state the residence or office address of the signer under Subdivision (2) and the capacity in which the signer [he] signs, if the statement is not signed by the candidate.

SECTION 18. Subchapter B, Chapter 33, Election Code, is amended by adding Section 33.035 to read as follows:

Sec. 33.035. INELIGIBILITY OF PERSON CONVICTED OF ELECTION OFFENSE. A person is ineligible to serve as a watcher in an election if the person has been finally convicted of an offense in connection with conduct directly attributable to an election.

SECTION 19. Section 34.001(c), Election Code, is amended to read as follows:

(c) A request under Subsection (b) must be received by the secretary of state not later than the fourth regular business day before the date of the election

for which the inspectors are requested. The request is not available for public inspection until the day after election day.

SECTION 20. Section 41.001, Election Code, is amended by adding Subsection (c) to read as follows:

(c) Except for an election under Subsection (a) or Section 41.0011, an election may not be held within 30 days before or after the date of the general election for state and county officers, general primary election, or runoff primary election.

SECTION 21. Section 41.003, Election Code, is amended to read as follows:

Sec. 41.003. AUTHORIZED NOVEMBER ELECTIONS IN EVEN-NUMBERED YEAR. Only the following elections may be held on the date of the general election for state and county officers:

(1) a general or special election for officers of the federal, state, or county government;

(2) a general or special election of officers of a general-law city if the city's governing body determines that the religious beliefs of more than 50 percent of the registered voters of the city prohibit voting on Saturday;

(3) a general or special election ~~[of officers]~~ of a home-rule city ~~[with a population under 30,000, if before 1975 the general election of the city's officers was held on that date in even-numbered years];~~

(4) an election on a proposed amendment to the state constitution or on another statewide measure submitted by the legislature;

(5) a countywide election on a measure that is ordered by a county authority and that affects county government;

(6) an election on a measure submitted by order of an authority of a city described by Subdivision (2) ~~[or (3)];~~

(7) a commissioners' election of a self-liquidating navigation district held under Section 63.0895, Water Code; and

(8) an election on a proposed home-rule school district charter or on a proposed amendment to a home-rule school district charter that is held under Section 12.019 or 12.020, Education Code.

SECTION 22. Section 52.031(c), Election Code, is amended to read as follows:

(c) A nickname of one unhyphenated word of not more than 10 letters by which the candidate has been commonly known for at least three ~~[two]~~ years ~~[immediately]~~ preceding the election may be used in combination with a candidate's name. A nickname that constitutes a slogan or otherwise indicates a political, economic, social, or religious view or affiliation may not be used. A nickname may not be used unless the candidate executes and files with the application for a place on the ballot an affidavit indicating that the nickname complies with this subsection.

SECTION 23. Section 52.061(a), Election Code, is amended to read as follows:

(a) The ballot shall be printed in black ink on white or light-colored paper, but the ballot may not be the same color as sample ballots.

SECTION 24. The heading of Section 61.010, Election Code, is amended to read as follows:

Sec. 61.010. WEARING NAME TAG OR BADGE IN POLLING PLACE ~~[PROHIBITED]~~.

SECTION 25. Section 61.010(b), Election Code, is amended to read as follows:

(b) An election judge, an election clerk, a state or federal election inspector, a certified peace officer, or a special peace officer appointed for the polling place by the presiding judge shall [may] wear while on duty in the area described by Subsection (a) a name tag and [or] official badge that indicates the person's title or position.

SECTION 26. Section 62.014, Election Code, is amended by adding Subsection (c) to read as follows:

(c) An election officer may make the changes to the list of registered voters required by this section at a location other than the polling place before it is opened for voting.

SECTION 27. Section 63.008, Election Code, is amended to read as follows:

Sec. 63.008. VOTER WITHOUT CERTIFICATE WHO IS ON LIST.

(a) A voter who does not present a voter registration certificate when offering to vote, but whose name is on the list of registered voters for the precinct in which the voter [he] is offering to vote, shall be accepted for voting if the voter executes an affidavit stating that the voter [he] does not have the voter's [his] voter registration certificate in the voter's [his] possession at the polling place at the time of offering to vote and:

(1) the voter presents proof of identification in a form described by Section 63.0101; or

(2) the affidavit is also signed by a person who is working at the polling place and who attests to the identity of the voter.

(b) If the requirements prescribed by Subsection (a) are not met, the voter may not be accepted for voting, and an election officer shall indicate beside the voter's name on the list of registered voters that the voter was rejected under this section.

SECTION 28. Section 63.009, Election Code, is amended to read as follows:

Sec. 63.009. Voter Without Certificate Who is Not on List. (a) Except as provided by Subsection (b), a [A] voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, shall be accepted for voting if[:

~~[(1) an election officer can determine from the voter registrar that the person is a registered voter of the county, and the voter executes the affidavits required by Sections 63.007 and 63.008; or~~

~~[(2)]~~ the voter presents proof of identification and executes an affidavit in accordance with Section 63.010.

(b) If an election officer can determine from the voter registrar that the person is a registered voter of the county, the affidavits required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.010 in complying with that section. After the voter is accepted under this subsection [Subsection (a)(1)], an election officer shall also indicate beside the voter's name on the poll list that the voter was accepted under this section.

SECTION 29. Sections 63.010(d) and (e), Election Code, are amended to read as follows:

(d) The presiding judge shall inform a voter of a challenge and of the

issues raised by the challenge. The presiding judge ~~shall~~ [may] request ~~the~~ [a] voter to present proof of identification in a form described by Section 63.0101 and to execute an affidavit that states the facts necessary to support the voter's eligibility to vote. On presentation of the required proof of identification and affidavit, the presiding judge shall determine the voter's identity. If the voter fails to present the required proof of identification, the presiding judge cannot verify the voter's identity from the proof presented, or the voter refuses to execute an affidavit, the voter may not be accepted for voting, and an election officer shall indicate on the affidavit or, if none, on a written statement containing the voter's name and any known residence address, and, if applicable, on the list of registered voters beside the voter's name that the voter was rejected under this section. After determining the voter's identity, the presiding judge shall return the documentation of proof to the voter[, if available.—A voter's failure to present proof of identification does not affect the voter's right to vote under this section].

(e) If a ~~[the]~~ [the] challenged voter whose identity is verified executes an affidavit that states the facts necessary to support the voter's eligibility to vote, the voter shall be accepted, and "sworn" shall be entered on the poll list beside the voter's name. If the ~~voter's [challenged voter does not execute an]~~ affidavit does not state [that states] the facts necessary to support the voter's eligibility to vote, the voter may not be accepted for voting, and an election officer ["rejected"] shall indicate on the affidavit and, if applicable, [be entered] on the list of registered voters beside the voter's name that the voter was rejected under this section.

SECTION 30. Chapter 63, Election Code, is amended by adding Section 63.0101 to read as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. The following documentation is acceptable as proof of identification under this chapter:

(1) a driver's license or personal identification card issued to the person by the Department of Public Safety or a similar document issued to the person by an agency of another state, regardless of whether the license or card has expired;

(2) a form of identification containing the person's photograph that establishes the person's identity;

(3) a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;

(4) United States citizenship papers issued to the person;

(5) a United States passport issued to the person;

(6) pre-printed checks containing the person's name that are issued for a financial institution doing business in this state;

(7) official mail addressed to the person by name from a governmental entity;

(8) two other forms of identification that establish the person's identity;

or

(9) any other form of identification prescribed by the secretary of state.

SECTION 31. Section 67.004(c), Election Code, is amended to read as follows:

(c) The canvassing authority may prepare the tabulation as a separate document or may enter the tabulation directly in the local election register maintained for the authority. The authority shall attach or include as part of the tabulation the report of early voting votes by precinct [~~and by early voting polling place location~~] received under Section 87.1231.

SECTION 32. Sections 84.001(a) and (e), Election Code, are amended to read as follows:

(a) To be entitled to vote an early voting ballot by mail, a person who is eligible for early voting must make an application for an early voting ballot to be voted by mail as provided by this title.

(e) A person who has not made an application as provided by this title is not entitled to receive an early voting ballot to be voted by mail.

SECTION 33. Section 85.031, Election Code, is amended to read as follows:

Sec. 85.031. ACCEPTING VOTER. (a) For each person [~~If an applicant is~~] entitled to vote an early voting ballot by personal appearance, the early voting clerk shall follow the procedure for accepting a regular voter on election day, with the modifications necessary for the conduct of early voting.

(b) A signature roster is not required to be maintained at an early voting polling place.

(c) On accepting a voter [~~If an applicant does not enter the applicant's voter registration number or county election precinct of residence on the application, or enters an incorrect number or precinct, the clerk shall enter the appropriate information on the application before permitting the applicant to vote.~~]

~~[(d) If the applicant is accepted to vote],~~ the clerk shall indicate beside the voter's [~~applicant's~~] name on the list of registered voters or registration omissions list, as applicable, that the voter is [~~applicant was~~] accepted to vote by personal appearance unless the form of either list makes it impracticable to do so, and the clerk shall enter the voter's [~~applicant's~~] name on the poll list.

SECTION 34. Section 85.062(b), Election Code, is amended to read as follows:

(b) A polling place established under this section may be located, subject to Subsection (d), at any place in the territory served by the early voting clerk and may be located in any stationary structure [~~, whether stationary or movable,~~] as directed by the authority establishing the branch office. The polling place may be located in a movable structure in the general election for state and county officers, general primary election, or runoff primary election. Ropes or other suitable objects may be used at the polling place to ensure compliance with Section 62.004. Persons who are not expressly permitted by law to be in a polling place shall be excluded from the polling place to the extent practicable.

SECTION 35. Section 85.064(b), Election Code, is amended to read as follows:

(b) Early voting by personal appearance at each temporary branch polling place established under Section 85.062(d) shall be conducted on the days [~~and for the same number of hours~~] that voting is required to be conducted at the main early voting polling place under Section 85.005. The authority establishing the temporary branch polling place shall determine the hours during which the voting is to be conducted on those days. The authority shall order

voting to be conducted for the same number of hours that voting is required to be conducted on those days at the main early voting polling place under Section 85.005 on receipt of a written request for those hours submitted by at least 15 registered voters of the county. The request must be submitted in time to enable compliance with Section 85.067.

SECTION 36. Section 85.069, Election Code, is amended to read as follows:

Sec. 85.069. ELECTION OFFICERS SERVING ~~[OFFICER IN CHARGE OF]~~ BRANCH POLLING PLACE. (a) The early voting clerk shall designate for each branch polling place a deputy early voting clerk as the election officer in charge of the polling place.

(b) The composition of the set of election officers serving a branch polling place must provide representation for each political party conducting a primary election in the county.

SECTION 37. Section 86.007, Election Code, is amended by amending Subsection (a) and adding Subsections (d), (e), (f), and (g) to read as follows:

(a) Except as provided by Subsection (d), a [A] marked ballot voted by mail must arrive at the address on the carrier envelope before the time the polls are required to close on election day.

(d) A marked ballot voted by mail that arrives after the time prescribed by Subsection (a) shall be counted if:

(1) the ballot was cast from an address outside the United States;

(2) the carrier envelope was placed for delivery before the time the ballot is required to arrive under Subsection (a); and

(3) the ballot arrives at the address on the carrier envelope not later than:

(A) the fifth day after the date of a general election; or

(B) the fourth day after the date of a primary or special election.

(e) A delivery under Subsection (d)(2) is timely, except as otherwise provided by this title, if the carrier envelope or, if applicable, the envelope containing the carrier envelope:

(1) is properly addressed with postage or handling charges prepaid;

(2) is sent from an address outside the United States; and

(3) bears a cancellation mark of a recognized postal service or a receipt mark of a common or contract carrier or a courier indicating a time before the deadline.

(f) If the envelope does not bear the cancellation mark or receipt mark as required by Subsection (e)(3), a delivery under Subsection (d)(1) is presumed to be timely if the other requirements under this section are met.

(g) The secretary of state shall prescribe procedures as necessary to implement Subsection (d).

SECTION 38. Section 87.002, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The early voting ballot board for the general election for state and county officers, general primary election, or runoff primary election must include at least one representative from each political party that conducts a primary election in that county. The representative shall be appointed from a list submitted by the county chair of the political party.

SECTION 39. Section 87.0241(b), Election Code, is amended to read as follows:

(b) The board may not count early voting ballots until:

(1) the polls open on election day; or

(2) in a county with a population of 100,000 or more, the end of the period for early voting by personal appearance.

SECTION 40. Section 87.1231, Election Code, is amended to read as follows:

Sec. 87.1231. EARLY VOTING VOTES REPORTED BY PRECINCT [~~AND POLLING PLACE LOCATION~~]. (a) Not later than the time of the local canvass, the early voting clerk shall deliver to the local canvassing authority a report of the total number of early voting votes for each candidate or measure by election precinct [~~and by early voting polling place location~~]. The report may reflect the total for votes by mail and the total for votes by personal appearance.

(b) The early voting clerk may not report vote totals under Subsection (a) for an election precinct in which fewer than five votes are cast during the early voting period.

SECTION 41. Subchapter G, Chapter 87, Election Code, is amended by adding Section 87.125 to read as follows:

Sec. 87.125. COUNTING OF CERTAIN LATE BALLOTS VOTED BY MAIL. (a) The early voting ballot board shall convene to count ballots voted by mail described by Section 86.007(d) on:

(1) the sixth day after the date of a general election; or

(2) the fifth day after the date of a primary or special election.

(b) On counting the ballots under Subsection (a), the early voting ballot board shall report the results to the local canvassing authority for the election.

SECTION 42. Section 101.003(b), Election Code, is amended to read as follows:

(b) In this chapter, "federal postcard application" means an application for a ballot to be voted under this chapter submitted on the official federal form prescribed under the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.) [~~Federal Voting Assistance Act of 1955~~].

SECTION 43. Section 101.004, Election Code, is amended by adding Subsections (e), (f), (g), (h), (i), and (j) to read as follows:

(e) An applicant who otherwise complies with applicable requirements is entitled to receive a full ballot to be voted by mail under this chapter if:

(1) the applicant submits a federal postcard application to the early voting clerk on or before the 30th day before election day; and

(2) the application contains the information that is required for registration under Title 2.

(f) The applicant is entitled to receive only a federal ballot to be voted by mail under Chapter 114 if:

(1) the applicant submits the federal postcard application to the early voting clerk after the 30th day before election day and before the sixth day before election day; or

(2) the application does not contain the information that is required for registration under Title 2.

(g) An applicant who submits a federal postcard application to the early

voting clerk on or after the sixth day before election day is not entitled to receive a ballot by mail for that election.

(h) If the applicant submits the federal postcard application within the time prescribed by Subsection (f)(1) and is a registered voter at the address contained on the application, the applicant is entitled to receive a full ballot to be voted by mail under this chapter.

(i) For purposes of determining the date a federal postcard application is submitted to the early voting clerk, an application is considered to be submitted on the date it is placed and properly addressed in the United States mail. The date indicated by the post office cancellation mark is considered to be the date the application was placed in the mail unless proven otherwise. If the 30th day or seventh day before the date of an election is a Saturday, Sunday, or legal state or national holiday, an application is considered to be timely if it is submitted to the early voting clerk on or before the next regular business day.

(j) If the early voting clerk determines that an application that is submitted before the time prescribed by Subsection (e)(1) does not contain the information that is required for registration under Title 2, the clerk shall notify the applicant of that fact. If the applicant submits the missing information before the time prescribed by Subsection (e)(1), the applicant is entitled to receive a full ballot to be voted by mail under this chapter. If the applicant submits the missing information after the time prescribed by Subsection (e)(1), the applicant is entitled to receive a full ballot to be voted by mail for the next election that occurs:

- (1) in the same calendar year; and
- (2) 30 days after the date the information is submitted.

SECTION 44. Section 101.007(a), Election Code, is amended to read as follows:

(a) The balloting materials provided under this chapter shall be airmailed to the voter free of United States postage, as provided by the federal Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. Section 1973ff et seq.) [~~Federal Voting Assistance Act of 1955~~], in an envelope labeled "Official Election Balloting Material - via Airmail." The secretary of state shall provide early voting clerks with instructions on compliance with this subsection.

SECTION 45. Subtitle B, Title 7, Election Code, is amended by adding Chapter 105 to read as follows:

CHAPTER 105. VOTING BY MILITARY PERSONNEL

Sec. 105.001. ELECTRONIC TRANSMISSION OF COMPLETED BALLOT. The secretary of state shall prescribe procedures to allow a member of the armed forces of the United States who is on active duty overseas and is casting an early voting ballot from outside the United States, or the spouse or a dependent of the member, to return the ballot by facsimile or other similar electronic means. The procedures must provide for verification of the voter and the security of the transmission.

Sec. 105.002. STATE WRITE-IN BALLOT. (a) The secretary of state shall prescribe procedures to allow a voter to apply for and cast a state write-in ballot before the time a voter may receive a regular ballot to be voted by mail if the voter is:

- (1) a member of the armed forces of the United States or the spouse or a dependent of a member; and

(2) unable to cast a ballot on election day or during the regular period for early voting because of a military contingency.

(b) A person may make an application for a ballot under this section on a form prescribed by the secretary of state or by indicating on a federal postcard application that the person desires a state write-in ballot.

(c) An application for a ballot under this section may not be submitted earlier than the 180th day before election day. If an application under this section is received after the time that regularly printed ballots become available, the early voting clerk shall send the applicant a regularly printed ballot.

(d) The secretary of state shall prescribe the form of the ballot to allow a voter to cast a vote in each federal, state, or local race in the election. The ballot must allow a voter to write in the name of a candidate or, if applicable, cast a straight-party vote.

SECTION 46. Section 114.007(a), Election Code, is amended to read as follows:

(a) The balloting materials provided under this chapter shall be airmailed to the voter free of United States postage, as provided by the federal Uniformed and Overseas Citizens Absentee Voting [Rights] Act (42 U.S.C. Section 1973ff et seq.) [of 1975], in an envelope labeled "Official Election Balloting Material— via Airmail." The secretary of state shall provide early voting clerks with instructions on compliance with this subsection.

SECTION 47. Section 127.006(b), Election Code, is amended to read as follows:

(b) Except as otherwise provided by this section, the eligibility requirements prescribed by this code for precinct election clerks apply to clerks serving at a central counting station. To be eligible to serve as a clerk under this section, a person must be a qualified voter of the county in which the central counting station is located. The general custodian of election records, an employee of the custodian, or any other [An] employee of a political subdivision is not ineligible [eligible] to serve as a clerk under this section because the person is a qualified voter of a county other than the county in which the central counting station is located or because of the custodian's status as a candidate or officeholder.

SECTION 48. Section 127.1231, Election Code, is amended to read as follows:

Sec. 127.1231. SECURITY OF AUTOMATIC TABULATING EQUIPMENT. (a) Except as provided by Subsection (b), the [The] general custodian of election records shall ensure that any computer terminals located outside the central counting station that are capable of accessing the automatic tabulating equipment during the tabulation are capable of inquiry functions only and shall ensure that no modem access to the tabulating equipment is available during the tabulation.

(b) The secretary of state may prescribe procedures for the use of a system to allow results to be transmitted by a modem to the central counting station from units of automatic tabulating equipment located at a precinct polling place or at a regional tabulating center serving several precincts. The system must provide for a secure transmission of data. Results may not be transmitted under this subsection until the polls close on election day.

SECTION 49. Section 127.201, Election Code, is amended to read as follows:

Sec. 127.201. PARTIAL COUNT OF ELECTRONIC VOTING SYSTEM BALLOTS BY GENERAL CUSTODIAN. (a) To ensure the accuracy of the tabulation of electronic voting system results, the general custodian of election records shall conduct a manual count of all the races in at least one percent of the election precincts or in three precincts, whichever is greater, in which the electronic voting system was used. The [Except as provided by Subsection (b), the] custodian shall select the precincts at random and shall begin the count not later than 72 hours after the polls close. The count shall be completed not later than the 21st day after election day. Subsection (b) supersedes this subsection to the extent of a conflict.

(b) In a general election for state and county officers, primary election, or election on a proposed amendment to the state constitution or other statewide measure submitted by the legislature, the secretary of state shall select, in accordance with rules adopted by the secretary, the precincts to be counted under Subsection (a). The secretary shall designate not more than three offices and not more than three propositions to be counted in the selected precincts. The secretary shall notify the general custodian of election records of the precincts, offices, and propositions selected under this subsection not earlier than the day after election day.

(c) On selection or notification, as applicable, of the precincts to be counted, the general custodian of election records shall post in the custodian's office a notice of the date, hour, and place of the count.

(d) ~~(c)~~ Each candidate in the election is entitled to be present at the count and is entitled to have a representative present. A representative must deliver a certificate of appointment to the general custodian at the time the representative reports for service. The certificate must be in writing and must include:

- (1) the printed name and signature of the representative;
- (2) the election subject to the count; and
- (3) the printed name and signature of the candidate making the

appointment.

(e) ~~(d)~~ Not later than the third day after the date the count is completed, the general custodian of election records shall deliver a written report of the results of the count to the secretary of state.

(f) ~~(e)~~ The secretary of state at any time may waive or reinstate the requirements of this section for a particular political subdivision.

SECTION 50. Title 8, Election Code, is amended by adding Chapter 128 to read as follows:

CHAPTER 128. COMPUTERIZED VOTING SYSTEMS

Sec. 128.001. COMPUTERIZED VOTING SYSTEM STANDARDS.

(a) The secretary of state shall prescribe procedures to allow for the use of a computerized voting system. The procedures must provide for the use of a computerized voting system with:

- (1) multiple voting terminals for the input of vote selections on the ballot presented by a main computer; and
- (2) a main computer to coordinate ballot presentation, vote selection, ballot image storage, and result tabulation.

(b) Notwithstanding Chapter 66, a system under this section may allow for the storage of processed ballot materials in an electronic form on the main computer.

(c) The secretary of state may modify existing procedures as necessary to allow the use of a system authorized by this chapter.

SECTION 51. Sections 141.032(c) and (d), Election Code, are amended to read as follows:

(c) If an application is accompanied by a petition, the petition is considered part of the application, and the review shall be completed as soon as practicable after the date the application is received by the authority. However, the petition is not considered part of the application for purposes of determining compliance with the requirements applicable to each document, and a deficiency in the requirements for one document may not be remedied by the contents of the other document.

(d) A determination under this section that an application complies with the applicable requirements does not preclude a subsequent determination that the application does not comply, subject to Section 141.034.

SECTION 52. Section 141.063, Election Code, is amended to read as follows:

Sec. 141.063. VALIDITY OF SIGNATURE. (a) A signature on a petition is valid if:

(1) except as otherwise provided by this code, the signer, at the time of signing, is a registered voter of the territory from which the office sought is elected or has been issued a registration certificate for a registration that will become effective in that territory on or before the date of the applicable election;

(2) the petition includes the following information with respect to each signer:

(A) the signer's residence address;

(B) the signer's date of birth and the signer's voter registration number and, if the territory from which signatures must be obtained is situated in more than one county, the county of registration;

(C) the date of signing; and

(D) the signer's printed name;

(3) the part of the petition in which the signature appears contains the affidavit required by Section 141.065;

(4) each statement that is required by this code to appear on each page of the petition appears, at the time of signing, on the page on which the signature is entered; and

(5) any other applicable requirements prescribed by this code for a signature's validity are complied with.

(b) The signature is the only information that is required to appear on the petition in the signer's own handwriting.

(c) The use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.

(d) The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state. The omission of the zip code from the address does not invalidate a signature.

SECTION 53. Section 141.069, Election Code, is amended to read as follows:

Sec. 141.069. VERIFYING SIGNATURES BY STATISTICAL SAMPLE.

If signatures on a petition that is required to contain more than 1,000 signatures are to be verified by the authority with whom the candidate's application is required to be filed, the authority may use as the basis for the verification any reasonable statistical sampling method that ensures an accuracy rate of at least 95 percent [~~as the basis for the verification. However, the sample may not be less than 25 percent of the total number of signatures appearing on the petition or 1,000, whichever is less~~].

SECTION 54. Chapter 142, Election Code, is amended by adding Section 142.0021 to read as follows:

Sec. 142.0021. FILING DECLARATIONS OF INTENT FOR MORE THAN ONE OFFICE PROHIBITED. (a) A candidate may not file declarations of intent for two or more offices that:

(1) are not permitted by law to be held by the same person; and

(2) are to be voted on at one or more elections held on the same day.

(b) If a person files more than one declaration of intent in violation of this section, each declaration filed subsequent to the first one filed is invalid.

SECTION 55. Section 142.010(c), Election Code, is amended to read as follows:

(c) A candidate's name may not be certified:

(1) if, before delivering the certification, the certifying authority learns that the name is to be omitted from the ballot under Section 145.064; or

(2) for an office for which the candidate's declaration or application is invalid under Section 142.0021 or 141.033, as applicable.

SECTION 56. Section 161.006, Election Code, is amended to read as follows:

Sec. 161.006. Holding [~~Primary or~~] Precinct Convention of More Than One Party in Same Building. A political party may not [~~hold a primary election in the same building in which another party is holding a primary election on the same day or~~] hold a precinct convention in the same building in which another party is holding a precinct convention on the same day unless:

(1) the rooms in which the [~~primary elections or~~] conventions are held are separated so that communication from one room to the other is precluded; and

(2) a sign in bold print identifying the party holding the [~~primary election or~~] convention is posted at the entrance to each room.

SECTION 57. Section 162.008(a), Election Code, is amended to read as follows:

(a) This section applies only to a person desiring to affiliate with a political party during that part of a voting year in which the general election for state and county officers is held that follows:

(1) the date of the precinct conventions held under this title, for a party nominating by convention; or

(2) 7 p.m. on general primary election day, for a party holding a primary election.

SECTION 58. Section 171.022, Election Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) Except as provided by Subsection (d), if [H] no candidate receives a

majority of the votes, a runoff to determine the office is conducted in the same manner as a runoff primary election to determine a nomination for public office. The candidates to be in a runoff are determined in the same manner as candidates in a runoff for a nomination.

(d) The state executive committee by rule may provide for the election of the county chair or precinct chairs of a particular county by plurality vote.

SECTION 59. Subchapter B, Chapter 171, Election Code, is amended by adding Section 171.0232 to read as follows:

Sec. 171.0232. ACCEPTANCE OF OFFICE BY WRITE-IN CANDIDATE. (a) Not later than the seventh day after the date the local canvass is completed, the county executive committee shall deliver by registered or certified mail, return receipt requested, to a write-in candidate who receives the vote required for election to the office of county or precinct chair a written notice of that fact.

(b) To be entitled to assume the office of county or precinct chair, a write-in candidate who receives the vote required for election must file a written declaration of acceptance of the office with the county executive committee not later than the seventh day after the date of receipt of the notice under Subsection (a).

SECTION 60. Section 171.024, Election Code, is amended by amending Subsections (b), (c), and (d) and adding Subsection (e) to read as follows:

(b) Except as provided by Subsection (c), a [A] majority of the committee's membership must participate in filling a vacancy. To be elected, a person must receive a favorable vote of a majority of the members voting.

(c) A vacancy in the office of precinct chair may be filled without participation of the majority of the committee membership if only one person is a candidate to fill the vacancy and the person:

(1) was elected as a precinct chair in the most recent primary election in the county; and

(2) is eligible to serve in the vacant office.

(d) A vacancy may not be filled before the beginning of the term of office in which the vacancy occurs.

(e) ~~(d)~~ After a vacancy is filled, the county chair ~~chairman~~ shall promptly deliver written notice of the replacement member's name and address to the state chair ~~chairman~~ and to the county clerk.

SECTION 61. Section 172.1111, Election Code, is amended to read as follows:

Sec. 172.1111. POSTING NOTICE OF PRECINCT CONVENTION REQUIRED. (a) Before the opening of the polls, the presiding judge shall post at each outside door through which a voter may enter the building in which the polling place is located a written notice in bold print of the date, hour, and place for convening the precinct convention.

(b) The judge is not required to use an officially prescribed form for the notice.

(c) The notice must remain posted continuously through election day.

SECTION 62. Subchapter E, Chapter 172, Election Code, is amended by adding Section 172.126 to read as follows:

Sec. 172.126. JOINT PRIMARIES AUTHORIZED. (a) The primary

elections in a county may be conducted jointly at the regular polling places designated for the general election for state and county officers. The county clerk shall supervise the overall conduct of the joint primary elections. This section applies to the conduct of joint primary elections notwithstanding and in addition to other applicable provisions of this code. The decision to conduct a joint primary election must be made by majority vote of the full membership of the commissioners court and with the unanimous approval of the county clerk and the county chair of each political party required to nominate candidates by primary election.

(b) The county clerk shall determine whether to consolidate election precincts under Section 42.009 and shall designate the location of the polling place in a consolidated precinct. To the extent possible, a polling place shall be designated that will accommodate the precinct conventions of each political party. If a polling place, whether for a regular or consolidated precinct, is not suitable for more than one precinct convention, the polling place may be used by the party whose candidate for governor received the most votes in the county in the most recent gubernatorial general election.

(c) One set of election officers shall conduct the primary elections at each polling place. Not later than the second Monday in December preceding the primary elections, each county chair shall deliver to the county clerk a list of the names of the election judges and clerks for that party. The presiding judge of each party, or alternate judge if applicable, serves as a co-judge for the precinct. The county clerk shall appoint the election clerks in accordance with rules prescribed by the secretary of state. The secretary of state shall prescribe the maximum number of clerks that may be appointed for each precinct. The early voting ballot board and any central counting station shall also be composed of and administered by one set of election officers that provides representation for each party, and the secretary of state by rule shall prescribe procedures consistent with this subsection for the appointment of those officers.

(d) Each co-judge has the law enforcement duties and powers provided under Section 32.075. Each co-judge has the exclusive authority to conduct challenges on the eligibility of voters, tabulate the votes, and deliver the election returns in the primary of the party with which that judge is affiliated or aligned.

(e) A written certification of the candidates' names that are to appear on the primary ballot shall be delivered to the county clerk in accordance with rules prescribed by the secretary of state.

(f) The county clerk shall determine the ballot format and voting system for each election precinct and shall procure the election equipment and supplies.

(g) A separate set of ballot boxes or other suitable containers approved by the secretary of state shall be used for each party's primary, except that one set of ballot boxes or other containers may be used in a joint primary using an electronic voting system in which the ballots are deposited by the voters directly into a unit of automatic tabulating equipment. The lists of registered voters and the voters' registration certificates shall be marked and stamped to show the appropriate party affiliation for each voter. A separate list of registered voters shall be used for each party's primary. The secretary of state by rule shall prescribe requirements to ensure that one party's ballot is readily

distinguished from another's, which may include the use of different colors of ink.

(h) Separate election returns shall be prepared for each party's primary and shall be canvassed as provided by this code.

(i) The secretary of state by rule shall prescribe the procedures necessary to implement this section to ensure the orderly and proper administration of joint primary elections.

SECTION 63. Subchapter A, Chapter 173, Election Code, is amended by adding Section 173.011 to read as follows:

Sec. 173.011. FINANCING OF JOINT PRIMARY ELECTIONS GENERALLY. (a) This section applies to the financing of joint primary elections notwithstanding and in addition to other applicable provisions of this code.

(b) Any surplus remaining in a county primary fund shall be remitted to the county clerk immediately after the final payment from the fund of the necessary expenses for holding the primary elections for that year, but not later than July 1 following the applicable primary election. The surplus in the primary fund shall be remitted regardless of whether state funds were requested by the chair. Any surplus primary funds received by the county clerk under this subsection may be used only for paying the remaining expenses of the joint primary election.

(c) The secretary of state shall adopt rules, consistent with this chapter to the extent practicable, that are necessary for the fair and efficient financing of joint primary elections.

SECTION 64. Section 181.006(k), Election Code, is amended to read as follows:

(k) The secretary of state shall post a notice of the receipt of a petition on the bulletin board used for posting notice of meetings of state governmental bodies. Any person may challenge the validity of the petition by filing a written statement of the challenge with the secretary of state not later than the fifth day after the date notice is posted. ~~The [If a petition that complies with the other applicable requirements appears on its face to contain a sufficient number of valid signatures, the]~~ secretary of state may ~~[not]~~ verify the petition signatures regardless of whether [unless] the petition is timely challenged.

SECTION 65. Section 212.005, Election Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Except as provided by Subsection (d), if [If] more than one petition or application is approved, the recount requested by each person shall be conducted at the same time.

(d) If different counting methods are chosen under Section 214.042(a) among multiple requests for a recount of electronic voting system results, only one method may be used in the recount. A manual recount shall be conducted in preference to an electronic recount and an electronic recount using a corrected program shall be conducted in preference to an electronic recount using the same program as the original count.

SECTION 66. Section 212.0241, Election Code, is amended to read as follows:

Sec. 212.0241. No Ground Required for Electronic Voting System Recount.

(a) A ground for obtaining an initial recount as prescribed by this subchapter is not required to obtain an initial recount of electronic voting system results, subject to Subsection (b).

(b) A candidate for nomination or election to an office may obtain an initial recount of electronic voting system results in an election in which the person was a candidate only if the candidate is shown by the election returns not to be nominated or elected.

(c) The secretary of state shall prescribe any procedures necessary to accommodate the authorization to obtain a recount of electronic voting system results without a specific ground.

(d) This section does not affect the scope of a recount as governed by Subchapter F.

SECTION 67. Sections 212.081, 212.083, and 212.085, Election Code, are amended to read as follows:

Sec. 212.081. Applicability of Subchapter. This subchapter applies to a recount in an election on an office in which:

- (1) a majority vote is required for nomination or election; and
- (2) votes were cast for more than two candidates[; ~~and~~

~~[(3) a regularly scheduled runoff for another office that was voted on at the same election, or at an election held jointly with the election for which a recount is desired, is to be held in any part of the territory covered by the election on the office for which a recount is desired].~~

Sec. 212.083. Deadline for Submitting Petition. ~~The [(a) If the date for the regularly scheduled runoff may not be earlier than the 25th day after the date of the election in which the recount is desired, the]~~ deadline for submitting a recount petition under this subchapter is the later of:

- (1) 2 p.m. of the third day after election day; or
- (2) 2 p.m. of the first day after the date of the local canvass.

~~[(b) If the date for the regularly scheduled runoff may be earlier than the 25th day after the date of the election, the deadline for submitting the petition is 2 p.m. of the second day after election day.]~~

Sec. 212.085. Deadline for Amending Petition. ~~[(a)]~~ The deadline for amending a petition under this subchapter ~~[governed by Section 212.083(a)]~~ is:

- (1) 10 a.m. of the day after the date notice of defect is received, if received at or after 12 midnight and before 12 noon; or
- (2) 4 p.m. of the day after the date notice of defect is received, if received at or after 12 noon and before 12 midnight.

~~[(b) The deadline for amending a petition governed by Section 212.083(b) is:~~

~~[(1) 4 p.m. of the day notice of defect is received, if received at or after 12 midnight and before 10 a.m.;~~

~~[(2) 10 a.m. of the day after the date notice of defect is received, if received at or after 10 a.m. and before 5 p.m.; or~~

~~[(3) 2 p.m. of the day after the date notice of defect is received, if received at or after 5 p.m. and before 12 midnight.]~~

SECTION 68. Section 212.113, Election Code, is amended to read as follows:

Sec. 212.113. Return of Deposit. (a) On rejection of a recount document, the recount coordinator shall return the recount deposit to the person who submitted the document.

(b) On the timely withdrawal of a recount document, the recount coordinator shall return to the person who submitted the document the recount deposit less any necessary expenditures made toward the conduct of the recount before the request for withdrawal was received.

(c) The recount coordinator shall return to each person requesting a recount whose chosen counting method is not used under Section 212.005(d) the recount deposit less any necessary expenditures made toward the conduct of the recount before the other counting method was determined to be the preferential method.

SECTION 69. Section 232.008, Election Code, is amended by adding Subsection (d) to read as follows:

(d) A contestant must deliver a copy of the petition to the secretary of state by the same deadline prescribed for the filing of the petition.

SECTION 70. Section 233.006, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The contestant must deliver a copy of the petition to the secretary of state by the same deadline prescribed for the filing of the petition.

SECTION 71. Chapter 271, Election Code, is amended by adding Section 271.0071 to read as follows:

Sec. 271.0071. MULTIPLE METHODS OF VOTING ALLOWED. The restrictions on multiple methods of voting at the same polling place or in early voting prescribed by Sections 123.005-123.007 do not apply to a joint election as if the joint election were a single election but rather apply independently to the election of each participating political subdivision in the joint election.

SECTION 72. Sections 277.002(a) and (d), Election Code, are amended to read as follows:

(a) For a petition signature to be valid, a petition must:

(1) contain in addition to the signature:

(A) the signer's printed name;

(B) the signer's date of birth and the signer's voter registration number and, if the territory from which signatures must be obtained is situated in more than one county, the county of registration;

(C) the signer's residence address; and

(D) the date of signing; and

(2) comply with any other applicable requirements prescribed by law.

(d) The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state. The omission of the zip code from the address does not invalidate a signature.

SECTION 73. (a) Subchapter A, Chapter 41, Election Code, is amended by adding Section 41.0031 to read as follows:

Sec. 41.0031. ELECTIONS IN MARCH IN CERTAIN POLITICAL SUBDIVISIONS. (a) This section applies only to:

(1) a city with a population of more than 450,000 in which all members of the city's governing body are elected at large;

(2) an independent school district or public junior college district with a service area that is primarily the same as that of a city described by Subdivision (1); and

(3) a metropolitan transit authority with a principal city described by Subdivision (1).

(b) A general or special election of officers of a political subdivision covered by this section shall be held on the fourth Saturday in March.

(b) Section 7(c), Chapter 429, Acts of the 70th Legislature, Regular Session, 1987, is amended to read as follows:

(c) The directors elected at the first election shall draw lots for three four-year terms and two two-year terms. Thereafter, all directors shall serve four-year terms, and all director's elections shall occur on the fourth Saturday in March [~~May general election date~~] of even-numbered years.

(c) The governing body of a political subdivision holding an election under Section 41.0031, Election Code, as added by this section, shall adjust the terms of office to conform to the new election date. The governing body shall adjust the election schedule to conform to the new date as provided by Section 41.006, Election Code.

(d) This section prevails over another Act of the 75th Legislature, Regular Session, 1997, to the extent of a conflict.

SECTION 74. Subchapter C, Chapter 49, Water Code, is amended by adding Section 49.072 to read as follows:

Sec. 49.072. DIRECTOR'S CANDIDACY FOR OTHER OFFICE: INELIGIBILITY. (a) A person serving as director of a district who becomes a candidate for another office is no longer qualified to serve as director.

(b) In this section, "candidate" has the meaning assigned by Section 251.001, Election Code.

SECTION 75. Section 9.004(b), Local Government Code, is amended to read as follows:

(b) The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of the date of the next municipal general election or presidential general election. The election date must allow [~~that allows~~] sufficient time to comply with other requirements of law and must occur [~~that occurs~~] on or after the 30th day after the date the ordinance is adopted.

SECTION 76. Section 84.006, Election Code, is repealed.

SECTION 77. Not later than January 15, 1999, the secretary of state shall file a report with the lieutenant governor and the speaker of the house of representatives on the costs of elections held by political subdivisions of this state on dates other than the uniform election dates prescribed by Section 41.001, Election Code.

SECTION 78. This Act takes effect September 1, 1997.

SECTION 79. 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 331** as follows:

(1) In Section 9 of the bill, in amended Section 32.002(c), Election Code, strike the fourth sentence (Committee Printing page 2, lines 53-57) and substitute the following: The commissioners court may reject the list if the persons whose names are submitted on the list are determined not to meet the

applicable eligibility requirements. If the list is rejected, the appointment shall be made for the full term in accordance with the same procedures provided for the filling of vacancies under Subsection (d) based on the time of the rejection instead of the time that a vacancy occurs.

(2) In Section 9 of the bill, in amended Section 32.002(d), Election Code, strike the second and third sentences (Committee Printing page 2, line 64, through page 3, line 2) and substitute the following: Not later than 48 hours after the county clerk becomes aware of a vacancy, the county clerk shall notify the county chair of the same political party with which the original judge was affiliated or aligned of the vacancy. Not later than the fifth day after the date of notification of the vacancy, the county chair of the same political party with which the original judge was affiliated or aligned shall submit to the commissioners court in writing the name of a person who is eligible for the appointment.

(3) In Section 25 of the bill, in amended Section 61.010(b), Election Code, strike the language after "Subsection (a)" and before the period (Committee Printing page 5, lines 67 and 68) and substitute "a [name] tag or official badge that indicates the person's name and title or position".

(4) In Section 33 of the bill, in amended Sections 85.031(b) and (c), Election Code, strike the language beginning with "(b) A signature roster" and ending with "(c) On accepting a voter [if" (Committee Printing page 7, lines 61-63) and substitute the following:

"(b) On accepting a voter [~~A signature roster is not required to be maintained at an early voting polling place.~~

~~[(c) If~~

(5) Insert an appropriately numbered section of the bill as follows:

SECTION _____. Section 67.003, Election Code, is amended to read as follows:

Sec. 67.003. TIME FOR LOCAL CANVASS. Each local canvassing authority shall convene to conduct the local canvass at the time set by the canvassing authority's presiding officer:

(1) on the seventh day after election day for the general election for state and county officers; or

(2) not earlier than the third [~~second~~] day or later than the sixth day after election day for an election other than the general election for state and county officers [~~at the time set by the canvassing authority's presiding officer~~].

(6) In Section 37 of the bill, strike added Section 86.007(d)(3), Election Code (Committee Printing page 8, lines 57-62), and substitute the following:

(3) the ballot arrives at the address on the carrier envelope not later than:

(A) the fifth day after the date of the general election for state and county officers; or

(B) the second day after the date of an election other than the general election for state and county officers.

(7) In Section 37 of the bill, in added Section 86.007(f), Election Code (Committee Printing page 9, line 7), after the period, insert a new sentence to read as follows: Section 1.006 does not apply to Subsection (d)(3)(A).

(8) Strike Section 38 of the bill (Committee Printing page 9, lines 10-17).

(9) In Section 43 of the bill, strike added Section 101.004(f), Election Code (Committee Printing page 9, line 67, through page 10, line 4), and substitute the following:

(f) The applicant is entitled to receive only a federal ballot to be voted by mail under Chapter 114 if:

(1) the applicant submits the federal postcard application to the early voting clerk after the 30th day before election day and before the sixth day before election day; and

(2) the application contains the information that is required for registration under Title 2.

(10) In Section 43 of the bill, strike added Section 101.004(i), Election Code (Committee Printing page 10, lines 13-22), and substitute the following:

(i) For purposes of determining the date a federal postcard application is submitted to the early voting clerk, an application is considered to be submitted on the date it is placed and properly addressed in the United States mail. The date indicated by the post office cancellation mark is considered to be the date the application was placed in the mail unless proven otherwise. For purposes of an application made under Subsection (e):

(1) an application that does not contain a cancellation mark is considered to be timely if it is received by the early voting clerk on or before the 22nd day before election day; and

(2) if the 30th day before the date of an election is a Saturday, Sunday, or legal state or national holiday, an application is considered to be timely if it is submitted to the early voting clerk on or before the next regular business day.

(11) In Section 45 of the bill, strike added Section 105.001, Election Code (Committee Printing page 10, lines 50-57), and substitute the following:

Sec. 105.001. ELECTRONIC TRANSMISSION OF COMPLETED BALLOT. (a) The secretary of state shall prescribe procedures to allow a person who is casting an early voting ballot by mail to return the ballot by telephonic facsimile machine or similar electronic means if the person:

(1) is a member of the armed forces of the United States who is on active duty overseas, or the spouse or a dependent of the member; and

(2) is casting the ballot from an area:

(A) in which members of the armed forces are eligible to receive hostile fire pay or imminent danger pay; or

(B) that has been designated by the president of the United States as a combat zone.

(b) The procedures must:

(1) provide for verification of the voter;

(2) provide for the security of the transmission; and

(3) require the early voting clerk to maintain a record of each ballot received under this section.

(c) A ballot transmitted under this section or by mail may not be counted if the ballot has previously been transmitted to the early voting clerk by electronic means under this section.

(12) In Section 45 of the bill, in added Section 105.002, Election Code (Committee Printing page 10, line 58, through page 11, line 1), strike Subsections (a) and (b) and substitute the following:

(a) The secretary of state shall prescribe procedures to allow a voter to apply for and cast a state write-in ballot before the time a voter may receive a regular ballot to be voted by mail if the voter:

(1) is a member of the armed forces of the United States or the spouse or a dependent of a member;

(2) is unable to cast a ballot on election day or during the regular period for early voting because of a military contingency; and

(3) makes an application on a federal postcard application that:

(A) indicates that the person desires a state write-in ballot;
and

(B) contains the information that is required for registration under Title 2.

(13) In Section 45 of the bill, in added Section 105.002, Election Code:

(A) reletter Subsection (c) as Subsection (b) (Committee Printing page 11, line 2);

(B) reletter Subsection (d) as Subsection (c) (Committee Printing page 11, line 7); and

(C) add a new Subsection (d) (Committee Printing page 11, after line 11) to read as follows:

(d) If a person casts a ballot under this section and under Chapter 114, the early voting clerk shall examine both ballots to determine the voter's intent.

(14) Insert appropriately numbered sections of the bill as follows:

SECTION _____. Section 146.054, Election Code, is amended to read as follows:

Sec. 146.054. FILING DEADLINE. A declaration of write-in candidacy must be filed not later than 5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed [~~45th day before election day. However, if a candidate whose name is to appear on the ballot dies or is declared ineligible after the 48th day before election day, a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 42nd day before election day.~~].

SECTION _____. Section 11.056(b), Education Code, is amended to read as follows:

(b) A declaration of write-in candidacy must be filed not later than 5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed [~~30th day before the date of the election. However, if a candidate whose name is to appear on the ballot dies or is declared ineligible after the 33rd day before the date of the election, a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 27th day before the date of the election.~~].

(15) Strike Section 59 of the bill (Committee Printing page 14, lines 27-41).

(16) Strike Section 73 of the bill (Committee Printing page 18, lines 20-49).

(17) Renumber remaining sections of the bill accordingly.

Senate Amendment No. 2

Amend **CSHB 331**, by inserting the following new SECTIONS in the appropriate location and renumbering as appropriate:

SECTION _____. Section 255.007, Election Code, is amended to read as follows:

Sec. 255.007. NOTICE REQUIREMENT ON POLITICAL ADVERTISING SIGNS. (a) The following notice must be written on each political advertising sign:

"NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE) [~~(ARTICLE 2372cc, VERNON'S TEXAS CIVIL STATUTES, AND ARTICLE 6674v-7, REVISED STATUTES)~~], TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY."

(b) A person commits an offense if the person:

(1) knowingly enters into a contract to print or make a political advertising sign that does not contain the notice required by Subsection (a); or

(2) instructs another person to place a political advertising sign that does not contain the notice required by Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

(d) It is an exception to the application of Subsection (b) that the political advertising sign was printed or made before September 1, 1997, and complied with Subsection (a) as it existed immediately before that date.

(e) In this section, "political advertising sign" means a written form of political advertising designed to be seen from a road but does not include a bumper sticker.

HB 623 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 623, A bill to be entitled An Act relating to certification of public school educators.

On motion of Representative Hernandez, the house concurred in the senate amendments to **HB 623**.

Senate Amendment No. 1

Amend **HB 623** (Senate committee printing) as follows:

1. On page 1, line 15 and 16, strike "on satisfactory completion of:" and substitute "upon satisfactory completion of an examination or other assessment of the educator's qualification."

2. Strike section (a)(1) of SECTION 1 (page 1, lines 17 and 18).

3. Strike section (a)(2) of SECTION 1 (page 1, lines 19 through 21).

4. Strike section (b) of SECTION 1 (page 1, lines 22 through 25).

HB 670 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 670, A bill to be entitled An Act relating to the appraisal of property located in more than one appraisal district.

On motion of Representative Shields, the house concurred in the senate amendments to **HB 670**.

Senate Committee Substitute

CSHB 670, A bill to be entitled An Act relating to the appraisal of property for ad valorem tax purposes.

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

SECTION 1. Section 6.02, Tax Code, is amended to read as follows:

Sec. 6.02. DISTRICT BOUNDARIES. ~~The [(a) Except as otherwise provided by this section, the]~~ appraisal district's boundaries are the same as the county's boundaries.

~~[(b) A taxing unit that has boundaries extending into two or more counties may choose to participate in only one of the appraisal districts. In that event, the boundaries of the district chosen extend outside the county to the extent of the unit's boundaries. To be effective, the choice must be approved by resolution of the board of directors of the district chosen. The choice of a school district to participate in a single appraisal district does not apply to property annexed to the school district under Subchapter C or G, Chapter 36, Education Code, unless:~~

~~[(1) the school district taxes property other than property annexed to the district under Subchapter C or G, Chapter 36, Education Code, in the same county as the annexed property; or~~

~~[(2) the annexed property is contiguous to property in the school district other than property annexed to the district under Subchapter C or G, Chapter 36, Education Code.~~

~~[(c) A taxing unit that has chosen to participate in a single appraisal district under Subsection (b) of this section may revoke that choice and, if permitted to do so by Subsection (b), choose to participate in a single appraisal district other than the one previously chosen. A taxing unit that has withdrawn from an appraisal district under this subsection and chosen to participate in another single appraisal district may not under this subsection withdraw from that district.~~

~~[(d) A taxing unit that makes a choice under this section must do so by an official action of its governing body in the manner required by law for official action by the body. A choice made by a taxing unit under this section takes effect beginning on the next January 1 that is at least 90 days from the date on which the choice is made.~~

~~[(e) If a taxing unit ceases to have territory in the county for which the appraisal district in which the unit participates is established, but still has territory in two or more counties, the unit may choose to participate in only one district in the manner prescribed by this section.~~

~~[(f) All costs of operating an appraisal district in territory outside the county for which the appraisal district is established are allocated to the taxing unit for which the appraisal district appraises property in that territory. If the appraisal district appraises property in the same territory for two or more taxing units, costs of operating the district in that territory are allocated to the units in the proportion the total dollar amount of taxes each unit imposes in that territory bears to the total dollar amount of taxes all taxing units participating in the appraisal district impose in that territory.~~

~~[(g) If property is annexed to a school district under Subchapter C or G,~~

~~Chapter 36, Education Code, the appraisal district established for the county in which the property is located shall appraise the property for the school district, and the school district participates in that appraisal district for purposes of the appraisal of that property, except as otherwise permitted by Subsection (b).]~~

SECTION 2. Section 41.097(a), Education Code, is amended to read as follows:

(a) The total amount required under Section 41.093 for a district to purchase attendance credits under this subchapter for any school year is reduced by an amount equal to the product of the district's costs under Section 6.06, Tax Code, for each ~~[the central]~~ appraisal district in which it participates multiplied by a percentage that is computed by dividing the total amount required under Section 41.093 by the total amount of taxes imposed in the district for that year.

SECTION 3. Section 41.210(b), Education Code, is amended to read as follows:

(b) As soon as practicable after the detachment and annexation of property, the chief appraiser of the appraisal district in which the property is located ~~[for the school district from which the property is detached]~~ shall send a written notice of the detachment and annexation to the owner of any property taxable in a different school district as a result of the detachment and annexation. The notice must include the name of the school district by which the property is taxable after the detachment and annexation.

SECTION 4. The following statutes are repealed:

- (1) Section 13.007, Education Code;
- (2) Section 6.025, Tax Code; and
- (3) Section 6.03(m), Tax Code.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 1998.

(b) This section takes effect September 1, 1997.

(c) The changes in law made by this Act relating to the appraisal of property for ad valorem tax purposes apply to the appraisal of property for a tax year that begins on or after January 1, 1998.

(d) The term of each appraisal district director in an appraisal district described by Section 6.025, Tax Code, as that law existed immediately before September 1, 1997, serving a staggered term that but for this subsection would expire after January 1, 1998, expires on January 1, 1998. The appraisal district board of directors shall fill the vacant directorships as soon as practicable after January 1, 1998, as provided by Section 6.03(l), Tax Code.

(e) Notwithstanding Section 6.03, Tax Code, a taxing unit is entitled to vote in 1997 for appraisal district directors for terms beginning on January 1, 1998, in each appraisal district in which the taxing unit will participate in 1998 under the law as amended by this Act. The voting entitlement of each taxing unit entitled to vote for directors in 1997 is determined by dividing the total dollar amount of property taxes imposed by the taxing unit for the 1996 tax year in the county for which the appraisal district is established by the sum of the total dollar amount of property taxes imposed in that county for that year by each taxing unit that is entitled to vote under this subsection in 1997, by multiplying the quotient by 1,000, and by rounding the product to the nearest

whole number. That number is multiplied by the number of directorships to be filled. A taxing unit located in two or more counties is entitled to vote in the appraisal district established for each county in which it is located, but only the taxes imposed in 1996 in the county for which a district is established are used to calculate the 1997 voting entitlement in that district.

(f) Notwithstanding Section 6.06, Tax Code, not later than September 15, 1997, the chief appraiser of each appraisal district shall revise the proposed 1998 budget for the district, if necessary, to account for the changes in law made by this Act.

(g) Notwithstanding Section 6.06, Tax Code, for the 1998 tax year, each taxing unit participating in an appraisal district in 1998 is allocated a portion of the amount of the 1998 budget for the district equal to the proportion that the total dollar amount of property taxes imposed in the county for which the district is established by the unit for the 1997 tax year bears to the sum of the total dollar amount of property taxes imposed in the county by each participating unit for that year. If a taxing unit participates in two or more appraisal districts in 1998, only the 1997 taxes imposed in the county for which a district is established are used to calculate the unit's cost allocations for 1998 in that district.

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.

Senate Amendment No. 1

Amend **CSHB 670** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 6.025, Tax Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) The chief appraisers of appraisal districts described by Subsection (a) shall [~~to the extent practicable~~] coordinate their appraisal activities so as to [~~encourage and~~] facilitate the appraisal of the same property appraised by each district at the same value.

(d) If a chief appraiser approves an application for a residence homestead exemption under Section 11.13 or an application under that section for a residence homestead exemption for an individual who is disabled or 65 years of age or older, the chief appraiser of every other appraisal district in which the property is located shall recognize that exemption and enter the exemption on the appraisal rolls of the appraisal district.

(e) If on May 1 all the chief appraisers of the appraisal districts described by Subsection (a) in which a parcel or item of property is located are not in agreement as to the appraised value of the property, on that date each of the chief appraisers shall enter as the value of the property on the appraisal records of the appropriate appraisal district the value that is calculated by:

(1) adding the appraised value of the property as determined by each chief appraiser; and

(2) dividing the sum of those appraised values by the number of appraisal districts in which the property is located.

(f) The owner of property for which the appraised value is determined under Subsection (e) is entitled to file a protest in relation to the property with the appraisal review board of any appraisal district in which the property is located. If the appraisal review board or a court on appeal of the protest determines a different appraised value for the property pursuant to the protest or appeal, the chief appraiser of every appraisal district in which the property is located shall enter that appraised value of the property on the appraisal records of the appraisal district.

SECTION 2. This Act takes effect January 1, 1998, and applies only to a tax year that begins on or after that date.

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.

LEAVE OF ABSENCE GRANTED

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

Corte on motion of Denny.

HB 724 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 724, A bill to be entitled An Act relating to transfers of contributions to the optional retirement program for faculty members of institutions of higher education.

On motion of Representative Serna, the house concurred in the senate amendments to **HB 724**.

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

Amend **HB 724** as follows:

(1) on page 1, line 17, immediately following "from the comptroller." insert the following: "This subsection does not apply to a supplemental payroll. This subsection applies only to a currently authorized company or a company with at least 50 participants at the institution."

(2) on page 1, line 22, insert "if the institution is currently able to send funds by electronic transfer" immediately following "transfer"

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

Amend **HB 724** as follows:

On page 2, line 2, insert the following new subsection (f) and reletter the remaining subsection accordingly:

(f) The company shall allocate and credit the contemporaneous deposit to each participant's account on the receipt of the electronic funds transfer and the electronic information on the amount to be allocated and credited to each

participant's account. A company who violates this section shall become ineligible for certification as a company eligible to provide an optional retirement program.

**HB 907 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 907, A bill to be entitled An Act relating to the application of the professional prosecutors law to the criminal district attorney of Collin County.

Representative Madden moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 907**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 907**: Madden, chair, Chisum, Counts, Finnell, and Zbranek.

**HB 1285 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1285, A bill to be entitled An Act relating to the meetings of a condominium board or association.

Representative Van de Putte 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 1285**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 1285**: Van de Putte, chair, Dukes, Janek, Rhodes, and Woolley.

**HB 1301 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1301, A bill to be entitled An Act relating to the oversight of the private sector prison industries program.

Representative Allen 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 1301**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 1301**: Allen, chair, Hightower, Hupp, Ramsay, and Serna.

**HB 2128 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2128, A bill to be entitled An Act relating to the use of telephone caller identification services and automated dial announcing devices by telephone solicitors; providing an administrative penalty.

On motion of Representative Keel, the house concurred in the senate amendments to **HB 2128**.

Senate Amendment No. 1

Amend **HB 2128** as follows:

Amend Subsection (e) of SECTION 1 of the bill (committee report, page 1, line 46), by striking "The caller identification information displayed must contain a telephone number at which the telephone solicitor may receive telephone calls." and substituting "Not later than September 1, 1998, the caller identification information displayed must contain a telephone number at which the telephone solicitor may receive telephone calls if the telephone solicitor leaves a message on a telephone answering device or uses an ADAD that plays a recorded message when a connection is completed to a telephone number."

HB 2128 - STATEMENT OF LEGISLATIVE INTENT

The specific legislative intent of **HB 2128** subsection (e) as amended is that a caller identification device in anyone's home will now always show identification information if the call is from a telephone solicitor.

A telephone solicitor may not use any method to prevent the recipient of the call from receiving information on their caller i.d. about the source of the call. "Any method" includes purposely originating or routing the call by electronic means so that the effect is to send an "unavailable" or similar message to a consumer's caller identification device.

Janek
Keel

REMARKS ORDERED PRINTED

Representative Keel moved to print remarks establishing legislative intent for **HB 2128**.

The motion prevailed without objection.

**HB 1553 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1553, A bill to be entitled An Act relating to court costs assessed for certain offenses to provide funding for child safety programs.

On motion of Representative Yarbrough, the house concurred in the senate amendments to **HB 1553**. (Heflin recorded voting no)

Senate Amendment No. 1

Amend **HB 1553** by striking all below the enacting clause and substituting the following:

SECTION 1. Article 102.014, Code of Criminal Procedure, is amended to read as follows:

Art. 102.014. COURT COSTS FOR CHILD SAFETY FUND IN MUNICIPALITIES. (a) The governing body of a municipality with a population greater than 850,000 according to the most recent federal decennial census that has adopted an ordinance, regulation, or order regulating the stopping, standing, or parking of vehicles as allowed by Section 542.202, Transportation Code [~~Subsection (a), Section 27, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes)~~], or Chapter 682, Transportation Code [~~Article 6701d-24, Revised Statutes~~], shall by order assess a court cost on each parking violation not less than \$2 and not to exceed \$5. The court costs under this subsection shall be collected in the same manner that other fines in the case are collected.

(b) The governing body of a municipality with a population less than 850,000 according to the most recent federal decennial census that has adopted an ordinance, regulation, or order regulating the stopping, standing, or parking of vehicles as allowed by Section 542.202, Transportation Code [~~Subsection (a); Section 27, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes)~~], or Chapter 682, Transportation Code [~~Article 6701d-24, Revised Statutes~~], may by order assess a court cost on each parking violation not to exceed \$5. The additional court cost under this subsection shall be collected in the same manner that other fines in the case are collected.

(c) A person convicted of an offense under Subtitle C, Title 7, Transportation Code [~~the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes)~~], when the offense occurs within a school crossing zone as defined by Section 541.302 [~~20E~~] of that code [~~Act~~], shall pay as court costs \$25 [~~\$20~~] in addition to other taxable court costs. A person convicted of an offense under Section 545.066, Transportation Code [~~104; Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes)~~], shall pay as court costs \$25 [~~\$20~~] in addition to other taxable court costs. The additional court costs under this subsection shall be collected in the same manner that other fines and taxable court costs in the case are collected and shall be assessed only in a municipality with a population of 950,000 or more according to the most recent federal decennial census.

(d) A person convicted of an offense under Section 25.093 [~~4.25~~], Education Code, or a child convicted of an offense under Section 25.094, Education Code, shall pay as taxable court costs \$20 in addition to other taxable court costs. The additional court costs under this subsection shall be collected in the same manner that other fines and taxable court costs in the case are collected.

(e) [~~(d)~~] In this article, a person is considered to have been convicted in a case if:

- (1) a sentence is imposed;
- (2) the defendant receives probation or deferred adjudication; or
- (3) the court defers final disposition of the case.

(f) [~~(e)~~] In a municipality with a population greater than 850,000 according to the most recent federal decennial census, the officer collecting the costs in a municipal court case shall deposit money collected under this article in the municipal child safety trust fund established as required by Chapter 106, Local Government Code.

(g) [~~(f)~~] In a municipality with a population less than 850,000 according to the most recent federal decennial census, the money collected under this article in a municipal court case must be used for a school crossing guard program if the municipality operates one. If the municipality does not operate a school crossing guard program or if the money received from court costs from municipal court cases exceeds the amount necessary to fund the school crossing guard program, the municipality may either deposit the additional money in an interest-bearing account or expend it for programs designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention.

(h) [~~(g)~~] Money collected under this article in a justice, county, or district court shall be used to fund school crossing guard programs in the county where they are collected. If the county does not operate a school crossing guard program, the county may:

- (1) remit fee revenues to school districts in its jurisdiction for the purpose of providing school crossing guard services;
- (2) fund programs the county is authorized by law to provide which are designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention;
- (3) provide funding to the sheriff's department for school-related activities;
- (4) provide funding to the county juvenile probation department; or
- (5) deposit the money in the general fund of the county.

(i) [~~(h)~~] Each collecting officer shall keep separate records of money collected under this article.

SECTION 2. (a) The change in law made by this Act applies only to a violation or an offense committed on or after the effective date of this Act. For purposes of this section, a violation or an offense is committed before the effective date of this Act if any element of the violation or offense occurs before that date.

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

SECTION 3. This Act takes effect September 1, 1997.

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. 2

Amend Floor Amendment No. 1 to **HB 1553** as follows:

(1) On page 2, lines 18-19, strike "950,000 or more according to the most recent federal decennial census" and substitute "400,000 or more".

**HB 2214 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2214, A bill to be entitled An Act relating to fees for correspondence courses for certain veterans and the children of certain veterans.

On motion of Representative Delisi, the house concurred in the senate amendments to **HB 2214**.

Senate Amendment No. 1

Amend **HB 2214** by replacing Section 1 with the following SECTION 1:
SECTION 1. Section 54.545, Education Code, is amended by amending Subsection (c) to read as follows:

(c) Subchapter B and D do not apply to a fee charged under this section, except to a fee for a correspondence course taken by a student who would qualify for an exemption from tuition under Section 54.203 if the correspondence course applies towards the students' degree plan. The governing board of an institution of higher education may grant an exemption provided by Section 54.203 for continuing education courses.

**HB 2324 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2324, A bill to be entitled An Act relating to the organization and operation of certain prison industries in the Texas Department of Criminal Justice, the Texas Youth Commission, and certain county correctional facilities and to agricultural programs and work programs of the Texas Department of Criminal Justice; providing a penalty.

On motion of Representative Allen, the house concurred in the senate amendments to **HB 2324**.

Senate Amendment No. 1

Amend **HB 2324**, in SECTION 1 of the bill, in proposed Section 497.025(c), Government Code, (Senate committee report, page 4, line 41, through page 4, line 50), by striking the last two sentences and substituting the following:

"Nothing herein shall be interpreted to require a political subdivision to purchase goods or articles from the office [~~division~~] if the political subdivision determines that the goods or articles can be purchased elsewhere at a lower price. An ~~or an~~ agency may decline to purchase goods or articles from the office [~~division~~] if the agency determines, after giving the office a final

opportunity to negotiate on price, and the General Services Commission certifies, that the goods or articles can be purchased elsewhere at a lower price."

Senate Amendment No. 2

Amend **HB 2324** by inserting the following appropriately numbered section and renumbering the sections of the bill accordingly:

SECTION _____. Section 61.123, Human Resources Code, is amended to read as follows:

Sec. 61.123. PAY AND DISTRIBUTION OF PAY. The commission shall apportion wages earned by a child working under the industries program in amounts determined at the discretion of the commission, in the following priority:

- (1) a person to whom the child has been ordered by a court or to whom the child has agreed to pay restitution;
- (2) a person to whom the child has been ordered by a court to pay child support; ~~and~~
- (3) the compensation to victims of crime fund or the compensation to victims of crime auxiliary fund; and
- (4) ~~the child's student account.~~

Senate Amendment No. 3

Amend **HB 2324** as follows:

(1) In SECTION 1 of the bill, in amended Section 497.006, Government Code, strike the first sentence in the section and substitute the following: "To encourage the development and expansion of ~~the~~ prison industries ~~program~~, the prison industries office may enter into necessary contracts related to the prison industries program."

(2) Strike SECTION 2 of the bill and renumber existing SECTIONS accordingly.

Senate Amendment No. 4

Amend **HB 2324** in SECTION 1 of the bill, in amended Section 497.006, Government Code, (Senate committee printing, page 2, line 55), immediately after "section.", by adding the following: "Not more than 250 inmates may participate in work programs under contracts entered into under this section.".

Senate Amendment No. 5

Amend **HB 2324** as follows:

On page 7 of the committee printing between lines 1 and 2 insert the following and renumber the subsequent sections appropriately:

"SECTION 6. Chapter 63, Civil Practice and Remedies Code, is amended by adding Section 63.006 to read as follows:

Sec. 63.006. GARNISHMENT OF FUNDS HELD IN INMATE TRUST FUND. (a) A writ of garnishment may be issued against an inmate trust fund held under the authority of the Texas Department of Criminal Justice under Section 501.014, Government Code, to encumber money that is held for the benefit of an inmate in the fund.

(b) The state's sovereign immunity to suit is waived only to the extent necessary to authorize a garnishment action in accordance with this section.

SECTION 7. Sections 501.014(e) and (f), Government Code, are amended to read as follows:

(e) On notification by a court, the department [~~institutional division~~] shall withdraw from an inmate's trust fund account any amount the inmate is ordered to pay by order of the court under this subsection [~~for child support, restitution, fines, and court costs~~]. The department [~~institutional division~~] shall make a payment under this subsection as ordered by the court to either the court or the party specified in the court order. The [~~institutional division and the~~] department is [~~are~~] not liable for withdrawing or failing to withdraw money or making payments or failing to make payments under this subsection. The department [~~institutional division~~] shall make withdrawals and payments from an inmate's trust fund account under this subsection according to the following schedule of priorities:

- (1) as payment in full for all orders for child support;
- (2) as payment in full for all orders for restitution;
- (3) as payment in full for all orders for court fees and costs [~~fin~~];

[~~and~~]

- (4) as payment in full for all orders for fin; and

[~~and~~] (5) as payment in full for any other court order, judgment, or writ [~~court costs~~].

(f) The department [~~institutional division~~] may place a hold on funds in or withdraw funds from an inmate trust fund account:

(1) to restore amounts withdrawn by the inmate against uncollected funds;

- (2) to correct accounting errors;

(3) to make restitution for wrongful withdrawals made by an inmate from the trust fund of another inmate;

- (4) to cover deposits until cleared;

- (5) as directed by court order in accordance with Subsection (e); [~~or~~]

(6) as part of an investigation by the department of inmate conduct involving the use of trust funds or an investigation in which activity in the trust fund is evidence; or

(7) to transfer funds deposited in violation of law or department policy.

SECTION 8. The changes in law made by this Act to Section 63.006, Civil Practice and Remedies Code, apply only to a writ of garnishment issued against an inmate trust fund on or after the effective date of this Act. A writ of garnishment issued against an inmate trust fund before the effective date of this Act is governed by the law as it existed before the effective date of this Act, and that law is continued in effect for this purpose."

**HB 2481 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2481, A bill to be entitled An Act relating to faith-based chemical dependency treatment programs and counselors.

Representative Swinford 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 2481**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 2481**: Swinford, chair, Glaze, Hawley, B. Turner, and West.

**HB 2592 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2592, A bill to be entitled An Act relating to disposition of stolen property.

On motion of Representative Tillery, the house concurred in the senate amendments to **HB 2592**.

Senate Committee Substitute

CSHB 2592, a bill to be entitled An Act relating to disposition of stolen property.

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

SECTION 1. Art. 47.02, Code of Criminal Procedure, is amended to read as follows:

Upon the trial of any criminal action for theft, or for any other illegal acquisition of property which is by law a penal offense, the court trying the case shall order the property to be restored to the person appearing by the proof to be the owner of the same.

Likewise, the judge of any court in which the trial of any criminal action for theft or any other illegal acquisition of property which is by law a penal offense is pending may, upon hearing, if it is proved to the satisfaction of the judge of said court that any person is a true owner of the property alleged to have been stolen, and which is in possession of a peace officer, by written order, direct the property to be restored to such owner.

As to property subject to the Certificate of Title Act (Article 6687-7, Vernon's Texas Civil Statutes), any magistrate having jurisdiction in the county in which the criminal action is pending may hold a hearing to determine the right to possession of the property, even if a criminal action is pending, upon written consent of the prosecuting attorney.

SECTION 2. This Act takes effect September 1, 1997.

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.

**HB 2799 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2799, A bill to be entitled An Act relating to investment practices of governmental entities.

On motion of Representative Marchant, the house concurred in the senate amendments to **HB 2799**.

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

Amend **HB 2799** by adding the following appropriately numbered SECTION and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 2256, Government Code, is amended by adding Section 2256.056 to read as follows:

Sec. 2256.056. COMPLIANCE WITH OTHER LAWS. Notwithstanding any other law, a local government may not issue for any purpose or cause to be issued in its behalf any installment sale obligation or lease-purchase obligation having the principal amount of \$1 million or more without complying with the provisions of Section 3.002, Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes), regardless of whether the obligation was issued individually or in a series of related transactions, or whether the obligation was issued with no recourse to the local government.

Senate Amendment No. 2

Amend **HB 2799** in Committee Amendment No. 1 (page 1, line 13, Senate committee printing) by striking the words "local government" and substituting "municipality with a population of less than 50,000".

**HB 2827 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2827, A bill to be entitled An Act relating to the death of an inmate in the custody of the Texas Department of Criminal Justice or imprisoned in a facility operated by or under contract with the department.

On motion of Representative Place, the house concurred in the senate amendments to **HB 2827** by (Record 585): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; 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.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Nixon; Oakley;

Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Flores.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Garcia; Naishtat; Van de Putte.

Senate Committee Substitute

CSHB 2827, A bill to be entitled an act relating to the death of an inmate in the custody of the Texas Department of Criminal Justice or imprisoned in a facility operated by or under contract with the department.

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

SECTION 1. Subsection (c), Article 49.18, Code of Criminal Procedure, is amended to read as follows:

(c) Subsection (a) [This article] does not apply to a death that occurs in a facility operated by or under contract with the Texas Department of Criminal Justice. Subsection (b) does not apply to a death that occurs in a facility operated by or under contract with the Texas Department of Criminal Justice if the death occurs under circumstances described by Section 501.055(b), Government Code.

SECTION 2. Section 501.055, Government Code, is amended to read as follows:

Sec. 501.055. REPORT OF INMATE DEATH. (a) If an inmate dies while in the custody of [~~confined in a facility operated by or under contract with~~] the department, an employee of the facility who is in charge of the inmate shall immediately notify the nearest justice of the peace serving in the county in which the inmate died and the office of internal affairs for the department. The justice shall personally inspect the body and make an inquiry as to the cause of death. The justice shall make written copies of evidence taken during the inquest, and give one copy to the director and one copy to a district judge serving in the county in which the inmate died. The judge shall provide the copy to the grand jury and, if the judge determines the evidence indicates wrongdoing, instruct the grand jury to thoroughly investigate the cause of death.

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

(1) dies of natural causes while attended by a physician or a registered nurse [~~and an autopsy is scheduled to be performed~~]; or

(2) is lawfully executed.

(c) If an inmate dies as described by Subsection (b)(1), the department or an authorized official of the department shall immediately attempt to notify the next of kin of the inmate that the inmate has died, state the time of the inmate's death, and inform the next of kin that unless the next of kin objects to the

department within eight hours of the stated time of death, an autopsy will be conducted on the inmate.

(d) If the next of kin consents to the autopsy or does not within eight hours of the time of death object to the department about the autopsy, the department or an authorized official of the department shall order an autopsy to be conducted on the inmate. The order of an autopsy under this subsection constitutes consent to an autopsy for the purposes of Article 49.13(b), Code of Criminal Procedure.

(e) For purposes of this section, an "inmate in the custody of the department" is a convicted felon who:

(1) is confined in a secure correctional facility operated by or under contract with the department; or

(2) has been admitted for treatment into a hospital while remaining in the custody of the department.

SECTION 3. Subchapter B, Chapter 501, Government Code, is amended by adding Section 501.0551 to read as follows:

Sec. 501.0551. ANATOMICAL GIFTS. (a) The department, during the diagnostic process, shall provide each inmate with a form on which the inmate may indicate whether the inmate wishes to be an eye, tissue, or organ donor if the inmate dies while in the custody of the department.

(b) If an inmate indicates on the form that the inmate wishes to be a donor, the effect is the same as if the inmate executed a statement of gift under Section 521.401, Transportation Code.

(c) The department shall adopt procedures to provide inmates with the form described by Subsection (a).

(d) In addition to providing inmates with the form described by Subsection (a) during the diagnostic process, the department shall make the forms available to inmates in the custody of the department who have completed the diagnostic process. For this purpose, the department shall prominently display the forms in areas accessible to inmates and provide with the forms information about the ability of inmates to execute a statement of gift and the effect of that execution. This subsection expires September 1, 2002.

SECTION 4. Article 49.13, Code of Criminal Procedure, is amended to read as follows:

Art. 49.13. CONSENT TO AUTOPSY. (a) Consent for a physician to conduct an autopsy is sufficient if given by the following:

(1) if the deceased was married, the surviving spouse;

(2) if the deceased was married but not survived by a spouse, an adult child of the deceased;

(3) if the deceased was married but not survived by a spouse, and a child of the deceased is under the care of a guardian or a court, the guardian or court having care of the child; or

(4) if the deceased person was unmarried or is not survived by a spouse or a child, the following persons in the order stated:

(A) a parent;

(B) a guardian;

(C) the next of kin; or

(D) any person who assumes custody of and responsibility for the burial of the body.

(b) Notwithstanding Subsection (a), consent for a physician to conduct an autopsy is sufficient if given by the Texas Department of Criminal Justice or an authorized official of the department in accordance with Section 501.055, Government Code.

SECTION 5. The changes in law made by Sections 1, 2, and 4 of this Act apply only to the investigation of the death of an inmate who dies on or after the effective date of this Act. The investigation of the death of an inmate who dies before the effective date of this Act is covered by the law in effect when the inmate died, and the former law is continued in effect for that purpose.

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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

**HB 3157 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3157, A bill to be entitled An Act relating to excepting certain legislative documents from required disclosure under the open records law.

Representative Rhodes 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 3157**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 3157**: Hilbert, chair, Alvarado, Danburg, Hunter, and McCall.

**HB 3207 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3207, A bill to be entitled An Act relating to the regulation of political contributions and expenditures and political advertising, the registration of lobbyists, personal financial disclosure by certain holders of and candidates for state office, and the publication of summaries of opinions of the Texas Ethics Commission.

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 3207**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 3207**: Wolens, chair, Danburg, Krusee, McCall, and S. Turner.

**HB 3249 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3249, A bill to be entitled An Act relating to school buses; providing a penalty.

On motion of Representative Hawley, the house concurred in the senate amendments to **HB 3249**.

Senate Committee Substitute

CSHB 3249, a bill to be entitled An Act relating to school buses; providing a penalty.

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

SECTION 1. Section 22.084, Education Code, is amended to read as follows:

Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided by Subsections (c) and (d), a [A] school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement that contracts with a person for transportation services shall obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

- (1) a person employed by the person as a bus driver; or
- (2) a person the person intends to employ as a bus driver.

(b) Except as provided by Subsections (c) and (d), a [A] person that contracts with a school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement to provide transportation services shall submit to the district, school, service center, or shared services arrangement the name and other identification data required to obtain criminal history record information of each person described by Subsection (a). If the district, school, service center, or shared services arrangement obtains information that a person described by Subsection (a) has been convicted of a felony or a misdemeanor involving moral turpitude, the district, school, service center, or shared services arrangement shall inform the chief personnel officer of the person with whom the district, school, service center, or shared services arrangement has contracted, and the person may not employ that person to drive a bus on which students are transported without the permission of the board of trustees of the district or service center, the governing body of the open-enrollment charter school, or the chief executive officer of the private school or shared services arrangement.

(c) A commercial transportation company that contracts with a school district, open-enrollment charter school, private school, regional education

service center, or shared services arrangement to provide transportation services may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

(1) a person employed by the commercial transportation company as a bus driver, bus monitor, or bus aide; or

(2) a person the commercial transportation company intends to employ as a bus driver, bus monitor, or bus aide.

(d) If the commercial transportation company obtains information that a person employed or to be employed by the company has been convicted of a felony or a misdemeanor involving moral turpitude, the company may not employ that person to drive or to serve as a bus monitor or bus aide on a bus on which students are transported without the permission of the board of trustees of the district or service center, the governing body of the open-enrollment charter school, or the chief executive officer of the private school or shared services arrangement. Subsections (a) and (b) do not apply if information is obtained as provided by Subsection (c).

SECTION 2. Section 34.002, Education Code, is amended to read as follows:

Sec. 34.002. SAFETY STANDARDS. (a) The [~~General Services Commission, with the advice of the~~] Department of Public Safety, with the advice of the General Services Commission and the Texas Education Agency, shall establish safety standards for school buses [~~motor vehicles~~] used to transport students in accordance with Section 547.7015, Transportation Code [~~105, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes)~~].

(b) Each school district shall meet or exceed [~~comply with~~] the safety standards for school buses [~~motor vehicles~~] established [~~by the General Services Commission~~] under Subsection (a).

(c) A school district that fails or refuses to meet [~~comply with~~] the safety standards for school buses established under this section is ineligible to share in the transportation allotment under Section 42.155 until the first anniversary of the date the district begins complying with the safety standards.

SECTION 3. Section 34.003, Education Code, is amended to read as follows:

Sec. 34.003. OPERATION OF SCHOOL BUSES. (a) School buses or mass transit authority motor buses shall be used for the transportation of students to and from schools on [~~school bus~~] routes having 10 or more students. On those [~~school bus~~] routes having fewer than 10 students, passenger cars may be used for the transportation of students to and from school.

(b) To transport students in connection with school activities other than on [~~school bus~~] routes to and from school:

(1) only school buses or motor[-] buses [~~chartered from motor bus companies, or district-owned buses meeting the safety standards prescribed for vehicles used by motor bus companies~~] may be used to transport 15 [~~10~~] or more students in any one vehicle; and

(2) passenger cars or passenger vans may be used to transport fewer than 15 [~~10~~] students.

(c) In all circumstances in which passenger cars or passenger vans are used

to transport students, the operator of the vehicle shall ensure that the number of passengers in the vehicle does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt.

SECTION 4. Section 34.008, Education Code, is amended to read as follows:

Sec. 34.008. CONTRACT WITH TRANSIT AUTHORITY OR COMMERCIAL TRANSPORTATION COMPANY. (a) A board of county school trustees or school district board of trustees may contract with a mass transit authority or a commercial transportation company for all or any part of a district's public school transportation if the authority or company:

(1) requires its school bus drivers to have the qualifications required by and to be certified in accordance with standards established by the Department of Public Safety; and

(2) uses only those school buses or mass transit authority buses [~~motor vehicles~~] in transporting 15 or more public school students that meet or exceed [~~satisfy~~] safety standards for school buses established under Section 547.7015, Transportation Code [~~requirements imposed by law on school motor vehicles operated by public school transportation systems~~].

(b) This section does not prohibit the county or school district board from supplementing the state transportation cost allotment with local funds necessary to provide complete transportation services.

(c) A mass transit authority [~~or a commercial transportation company~~] contracting under this section for daily transportation of pre-primary, primary, or secondary students to or from school shall conduct, in a manner and on a schedule approved by the county or district school board, the following education programs:

(1) a program to inform the public that public school students will be riding on the authority's or company's buses;

(2) a program to educate the drivers of the buses to be used under the contract of the special needs and problems of public school students riding on the buses; and

(3) a program to educate public school students on bus riding safety and any special considerations arising from the use of the authority's or company's buses.

~~[(d) In this section, "transit authority" includes a transportation authority or a transit department.]~~

SECTION 5. Section 34.009(b), Education Code, is amended to read as follows:

(b) A school bus that is leased or leased with an option to purchase under this section must meet or exceed the safety standards for school buses established under Section 547.7015, Transportation Code [~~34.002~~].

SECTION 6. Section 521.022, Transportation Code, is amended to read as follows:

Sec. 521.022. RESTRICTIONS ON OPERATORS OF CERTAIN SCHOOL BUSES. (a) A person under 18 years of age may not operate [~~a motor vehicle while that vehicle is in use as~~] a school bus for the transportation of students [~~pupils to or from school~~].

(b) A person who is 18 years of age or older may not operate [~~a motor~~

~~vehicle while that vehicle is in use as] a school bus unless the person holds an appropriate class of driver's license for the vehicle being operated [a license to operate a school bus].~~

(c) A person may not ~~[be employed to] operate [a motor vehicle while that vehicle is in use as]~~ a school bus for the transportation of students [pupils] unless the person meets the mental and physical capability requirements the department establishes by rule and has passed an examination approved by the department to determine the person's mental and physical capabilities to operate a school bus safely. Each school bus operator must pass the examination annually.

(d) A person may not operate a school bus for the transportation of students unless [Before employing a person to operate a school bus, a driver's license check shall be made with the department and] the person's driving record is [must be] acceptable according to minimum standards adopted [jointly developed] by [the State Board of Education and] the department. A check of the person's driving record shall be made with the department annually.

(e) A person may not operate a school bus for the transportation of students unless the person is certified in school bus safety education or has enrolled in a school bus safety education class under provisions adopted by the department. Effective on the date and under provisions determined by the department [State Board of Education], a school bus operator must hold a card [certificate] that states that the operator is enrolled in or has completed a driver training course [jointly] approved by the [State Board of Education and the] department in school bus safety education. The card [certificate] is valid for three years.

(f) Before a person is employed to operate a school bus to transport students, the employer must obtain a criminal history record check. A school district, school, service center, or shared services arrangement, or a commercial transportation company under contract with a school district, that obtains information that a person has been convicted of a felony or misdemeanor involving moral turpitude may not employ the person to drive a school bus on which students are transported unless the employment is approved by the board of trustees of the school district or the board's designee. In this subsection, "commercial transportation company" has the meaning assigned by Section 34.0005, Education Code.

(g) This section does not affect the right of an otherwise qualified person with a hearing disability to be licensed, certified, and employed as a bus operator for vehicles used to transport hearing-impaired students [persons].

~~(h) [(g)]~~ This section does not apply to the operation of a vehicle owned by a public institution of higher education to transport students of a school district that operates within that institution if:

(1) the person operating the vehicle is approved by the institution to operate the vehicle; and

(2) the transportation is for a special event, including a field trip.

SECTION 7. Sections 541.201(3), (12), and (15), Transportation Code, are amended to read as follows:

(3) "Bus" means:

(A) a motor vehicle used to transport persons and designed to accommodate more than 10 passengers, including the operator; or

(B) a motor vehicle, other than a taxicab, designed and used to transport persons for compensation.

(12) "Passenger car" means a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate 10 or fewer passengers, including the operator.

(15) "School bus" means a bus designed to transport more than 15 passengers, including the operator, and used for purposes that include regularly transporting students to and from school or school-related events. The term does not include a school-chartered bus or a bus operated by a mass transit authority, as those terms are defined by Section 34.0005, Education Code [~~motor vehicle, other than a bus used in an urban area by a common carrier to transport schoolchildren, that:~~

~~[(A) is being used to transport children to or from a school or school-related activity; and~~

~~[(B) complies with the color and identification requirements provided in the most recent edition of standards produced and sponsored by the National Education Association's National Commission on Safety Education].~~

SECTION 8. Section 545.066, Transportation Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) An operator on a highway, when approaching from either direction a school bus stopped on the highway to receive or discharge a student [~~schoolchild~~]:

(1) shall stop before reaching the school bus when the bus is operating a visual signal as required by Section 547.701; and

(2) may not proceed until:

(A) the school bus resumes motion;

(B) the operator is signaled by the bus driver to proceed; or

(C) the visual signal is no longer actuated.

(f) For the purposes of this section:

(1) a highway is considered to have separate roadways only if the highway has roadways separated by an intervening space on which operation of vehicles is not permitted, a physical barrier, or a clearly indicated dividing section constructed to impede vehicular traffic; and

(2) a highway is not considered to have separate roadways if the highway has roadways separated only by a left turn lane.

SECTION 9. Section 545.253(a), Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (c), the operator of a motor bus carrying passengers for hire [~~or of a school bus carrying a schoolchild~~], before crossing a railroad grade crossing:

(1) shall stop the vehicle not closer than 15 feet or farther than 50 feet from the nearest rail of the railroad;

(2) while stopped, shall listen and look in both directions along the track for an approaching train and signals indicating the approach of a train; and

(3) may not proceed until it is safe to do so.

SECTION 10. Subchapter F, Chapter 545, Transportation Code, is amended by adding Section 545.2535 to read as follows:

Sec. 545.2535. SCHOOL BUSES TO STOP AT ALL RAILROAD GRADE CROSSINGS. (a) Except as provided by Subsection (c), the operator of a school bus, before crossing a track at a railroad grade crossing:

(1) shall stop the vehicle not closer than 15 feet or farther than 50 feet from the track;

(2) while stopped, shall listen and look in both directions along the track for an approaching train and signals indicating the approach of a train; and

(3) may not proceed until it is safe to do so.

(b) After stopping as required by Subsection (a), the operator may proceed in a gear that permits the vehicle to complete the crossing without a change of gears. The operator may not shift gears while crossing the track.

(c) An operator is not required to stop at:

(1) an abandoned railroad grade crossing that is marked with a sign reading "tracks out of service"; or

(2) an industrial or spur line railroad grade crossing that is marked with a sign reading "exempt."

(d) A sign under Subsection (c) may be erected only by or with the consent of the appropriate state or local governmental official.

SECTION 11. Section 547.701, Transportation Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) A school bus may be equipped with:

(1) rooftop warning lamps:

(A) that conform to and are placed on the bus in accordance with specifications adopted under Section 547.7015 [~~11.12, Education Code~~]; and

(B) that [~~which~~] may be operated only during inclement weather when the bus is stopping or is stopped to load or unload students [~~schoolchildren~~]; and

(2) movable stop arms:

(A) that conform to regulations adopted under Section 547.7015 [~~11.12, Education Code~~]; and

(B) that [~~which~~] may be operated only when the bus is stopped to load or unload students [~~schoolchildren~~].

(c) When a school bus is being stopped or is stopped on a highway to permit students to board or exit the bus, the operator of the bus shall activate all flashing warning signal lights and other equipment on the bus designed to warn other drivers that the bus is stopping to load or unload children. A person may not operate such a light or other equipment except when the bus is being stopped or is stopped on a highway to permit students to board or exit the bus [~~A school bus operator shall activate the warning equipment designed to warn other vehicle operators that the bus is stopping to load or unload children, including flashing warning signal lamps, when the bus is stopping or stopped to load or unload schoolchildren. A person may not activate the warning equipment at any other time~~].

(d) The exterior of a school bus may not bear advertising or another paid announcement directed at the public if the advertising or announcement distracts from the effectiveness of required safety warning equipment. The department

shall adopt rules to implement this subsection. A school bus that violates this section or rules adopted under this section shall be placed out of service until it complies.

SECTION 12. Section 411.097, Government Code, is amended to read as follows:

Sec. 411.097. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SCHOOL DISTRICT, CHARTER SCHOOL, PRIVATE SCHOOL, REGIONAL EDUCATION SERVICE CENTER, COMMERCIAL TRANSPORTATION COMPANY, OR EDUCATION SHARED SERVICES ARRANGEMENT. (a) A school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement is entitled to obtain from the department criminal history record information maintained by the department that the district, school, service center, or shared services arrangement is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is:

(1) an applicant for employment by the district, school, service center, or shared services arrangement; or

(2) an employee of or an applicant for employment with a public or commercial transportation company that contracts with the district, school, service center, or shared services arrangement to provide transportation services if the employee drives or the applicant will drive a bus in which students are transported or is employed or is seeking employment as a bus monitor or bus aide on a bus in which students are transported.

(b) A school district, charter school, private school, regional education service center, or education shared services arrangement is entitled to obtain from the department, no more than twice each year, criminal history record information maintained by the department that the district, school, service center, or shared services arrangement is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is a volunteer or employee of the district, school, service center, or shared services arrangement.

(c) Criminal history record information obtained by a school district, charter school, private school, service center, commercial transportation company, or shared services arrangement under Subsection (a) or (b) may not be released or disclosed to any person, other than the individual who is the subject of the information, the Texas Education Agency, the State Board for Educator Certification, or the chief personnel officer of the transportation company, if the information is obtained under Subsection (a)(2).

(d) If a regional education service center or commercial transportation company that receives criminal history record information from the department under this section requests the information by providing to the department a list, including the name, date of birth, and any other personal descriptive information required by the department for each person, through electronic means, magnetic tape, or disk, as specified by the department, the department may not charge the service center or commercial transportation company more than the lesser of:

(1) the department's cost for providing the information; or

(2) the amount prescribed by another law.

SECTION 13. (a) In addition to the substantive changes in law made by this Act, this Act conforms the Transportation Code to changes in law made by Sections 55 and 56, Chapter 260, and Section 25, Chapter 1009, Acts of the 74th Legislature, Regular Session, 1995.

(b) To the extent of any conflict, this Act prevails over another Act of the 75th Legislature, Regular Session, 1997, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 14. This Act takes effect September 1, 1997.

SECTION 15. 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 3249** in the following manner:

In SECTION 2, Sec. 34.002 subsection (a), Education Code, page 2, line 9, by striking: "~~547.7015, Transportation Code~~", and insert in its place: "34.002, Education Code".

In SECTION 4, Sec. 34.008 subsection (a)(2), Education Code, page 2, line 56-57, by striking: "~~547.7015, Transportation Code~~", and insert in its place: "34.002, Education Code".

In SECTION 5, Sec. 34.009 subsection (b), Education Code, page 3, line 13-14, by striking: "~~547.7015, Transportation Code~~", and insert in its place: "34.002, Education Code".

In SECTION 6, Sec. 521.022 (f), page 3, line 60-61, by deleting: In the subsection, "commercial transportation company" has the meaning assigned by Section 34.005, Education Code.

In SECTION 7, Sec. 541.201 (15), page 4, line 20-21, by deleting: , as those terms are defined by Section 34.005, Education Code

In SECTION 11, Sec 547.701 subsection (b)(1)(A), Transportation Code, page 5, line 25, by striking: "~~547.7015~~", and insert in its place: "34.002, Education Code".

In SECTION 11, Sec 547.701 subsection (b)(2)(A), Transportation Code, page 5, line 32, by striking: "~~547.7015~~", and insert in its place: "34.002, Education Code".

Senate Amendment No. 2

Amend **CSHB 3249** by adding Subsections (d) and (e) to Section 34.003, in SECTION 3 of the bill, to read as follows:

"(d) In this section, "passenger van" means a motor vehicle other than a motorcycle or passenger car, used to transport persons and designed to transport 15 or fewer passengers, including the driver."

"(e) "Motor bus" means a vehicle designed to transport more than 15 passengers, including the driver."

Senate Amendment No. 3

Amend **CSHB 3249** by adding the following as SECTION 4 and renumbering subsequent sections accordingly:

Section 34.004, Education Code, as amended to read as follows:

Sec. 34.004. STANDING CHILDREN. A school district may not require or allow a child to stand on a school bus or passenger van that is in motion.

**HB 793 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 793, A bill to be entitled An Act relating to notice that entry on property is forbidden for the purpose of prosecuting the offense of trespass.

Representative Merritt 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 793**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 793**: Merritt, chair, Bonnen, Hightower, Ramsay, and Stiles.

SB 99 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pitts submitted the conference committee report on **SB 99**.

Representative Pitts moved to adopt the conference committee report on **SB 99**.

The motion prevailed. (Craddick recorded voting no)

SB 190 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Naishtat submitted the conference committee report on **SB 190**.

SB 190 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE MADDEN: Mr. Naishtat, would you agree that it is the intent of the conference committee on **SB 190** that in the application of a penalty authorized by **SB 190**, an administrative penalty under Chapter 242 of the Health and Safety Code will not be imposed if a civil penalty is imposed under Chapter 242.065 of the Health and Safety Code for a violation arising out of the same act or failure to act?

REPRESENTATIVE NAISHTAT: That is our intent, yes.

REMARKS ORDERED PRINTED

Representative Madden moved to print remarks by Representatives Madden and Naishtat establishing legislative intent for **SB 190**.

The motion prevailed without objection.

SB 190 - (consideration continued)

Representative Naishtat moved to adopt the conference committee report on **SB 190**.

The motion prevailed.

SB 273 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Cuellar submitted the conference committee report on **SB 273**.

Representative Cuellar moved to adopt the conference committee report on **SB 273**.

The motion prevailed.

**HB 51 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 51, A bill to be entitled An Act relating to requiring a declaration of write-in candidacy in an election for the members of the governing body of a junior college district or the board of a hospital district.

On motion of Representative Madden, the house concurred in the senate amendments to **HB 51** by (Record 586): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; Giddings; Glaze; Goodman; 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.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; 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; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Flores.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Garcia; Goolsby; Price.

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

Amend **HB 51** by adding an appropriately numbered section to read as follows and by renumbering the existing sections as appropriate:

SECTION _____. Subchapter C, Chapter 63, Water Code, is amended by adding Section 63.0945 to read as follows:

Sec. 63.0945. WRITE-IN CANDIDATES. (a) In an election to elect a commissioner, a write-in vote may not be counted unless the name written in appears on the list of write-in candidates.

(b) To be entitled to a place on the list of write-in candidates, a candidate must make a declaration of write-in candidacy.

(c) A declaration of write-in candidacy must be filed with the authority with whom an application for a place on the ballot is required to be filed in the election.

(d) A declaration of write-in candidacy must be filed not later than 5 p.m. of the 45th day before election day. However, if a candidate whose name is to appear on the ballot dies or is declared ineligible after the 48th day before election day, a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 42nd day before election day.

(e) Subchapter B, Chapter 146, Election Code, applies to write-in voting in an election to elect a commissioner except to the extent of a conflict with this subchapter.

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

Amend **HB 51** as follows:

Delete SECTIONS 3 and SECTION 4 of the bill and insert the following:

"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 affect and be in force from and after its passage, and it is so enacted."

HB 242 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 242, A bill to be entitled An Act relating to the signature of a notary public on behalf of an individual with a disability.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 242**.

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

Amend **HB 242** (Engrossed Version) by adding the following at the end of SECTION 1 of the bill (page 1, line 2-3):

"(d) In this section, "disability" means a physical impairment that impedes the ability to sign or make a mark on a document."

HB 251 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 251, A bill to be entitled An Act relating to creating a license for the storage of imported beer, ale, and malt liquor.

On motion of Representative Cuellar, the house concurred in the senate amendments to **HB 251**.

Senate Committee Substitute

CSHB 251, A bill to be entitled An Act relating to creating a license for the storage of imported beer, ale, and malt liquor.

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

SECTION 1. Subtitle B, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 75 to read as follows:

CHAPTER 75. STORAGE LICENSE

Sec. 75.01. AUTHORIZED ACTIVITIES. (a) The holder of a storage license who also holds a custom broker's license issued under 19 U.S.C. Section 1641(b) may import and store beer, ale, and malt liquor in a county with a population of 200,000 or less that borders the United Mexican States for:

(1) storage purposes only in a wet area, as that term is described by Section 251.71, from the holder of a nonresident manufacturer's license or nonresident brewer's permit whose manufacturing premises are located in the United Mexican States; and

(2) transfer to qualified persons located in the United States outside of this state.

(b) Only holders of a carrier permit may transport beer, ale, or malt liquor to or from the holder of a storage license. All provisions of Chapter 41 relating to the transportation of liquor also apply to transportation of beer, ale, or malt liquor under this chapter.

Sec. 75.02. RECORDS. (a) Each holder of a storage license shall make and keep a daily record of each receipt of beer, ale, or malt liquor. Each transaction shall be recorded on the day it occurs. The license holder shall make and keep any other records that the administrator or commission requires.

(b) All required records shall be kept available for inspection by the commission or its authorized representative during reasonable office hours for at least four years.

(c) The failure to make or keep a record as required by this section, the making of a false entry in the record, or the failure to make an entry as required by this section is a violation of this code.

Sec. 75.03. PREMISES. The holder of a storage license may not share the location or business with another holder of a license or permit issued under this code. Designation of a portion of a building, grounds, or appurtenances for exclusion under Section 11.49(b) is not available to the holder of a storage license.

Sec. 75.04. FEE. The annual fee for a storage license is \$200.

Sec. 75.05. LICENSING. The licensing provisions of Chapter 61 apply to storage licenses. The commission or administrator may suspend for not more than 60 days or cancel an original or renewal storage license if the commission or administrator determines, after notice and hearing, that the license holder violated a provision of this code or a rule of the commission during the existence of the license or during the immediately preceding license period.

SECTION 2. Section 61.31(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A person may file an application for a license to manufacture, distribute, store, or sell beer in termtime or vacation with the county judge of the county in which he desires to conduct business. He shall file the application in duplicate.

SECTION 3. This Act takes effect September 1, 1997.

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.

**HB 318 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 318, A bill to be entitled An Act relating to the public education grant program.

Representative Cuellar 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 318**.

The motion prevailed without objection. (Finnell recorded voting no)

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 318**: Cuellar, chair, Hochberg, Krusee, Rhodes, and Sadler.

**HB 330 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 330, A bill to be entitled An Act relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.

On motion of Representative Danburg, the house concurred in the senate amendments to **HB 330**.

Senate Committee Substitute

CSHB 330, A bill to be entitled An Act relating to the form of the ballot and related procedures in connection with certain voters voting on an affidavit; providing criminal penalties.

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

SECTION 1. Section 51.005, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The secretary of state shall prescribe procedures for determining the number of ballot stubs to be provided.

SECTION 2. Subchapter C, Chapter 52, Election Code, is amended by adding Section 52.074 to read as follows:

Sec. 52.074. BALLOT STUB FOR CERTAIN VOTERS. (a) The authority responsible for having the official ballot prepared shall have a detached ballot stub prepared as provided by this section for use by a voter who executes an affidavit in accordance with Section 63.010.

(b) The ballot stub shall be in a form approved by the secretary of state and must include:

(1) a space for entering the number matching the corresponding ballot number;

(2) spaces for entering the designation of the nature of the election and the date of the election;

(3) the instruction: "Sign ballot stub, enclose in envelope, and give to election officer."; and

(4) a space for the voter's signature.

SECTION 3. Section 61.005, Election Code, is amended to read as follows:

Sec. 61.005. SECURITY OF BALLOTS, [and] BALLOT BOXES, Stubs, and Envelopes. (a) From the time a presiding judge receives the official ballots for an election until the precinct returns for that election have been certified, the presiding judge shall take the precautions necessary to prevent access to the ballots, [and] ballot boxes, ballot stubs, and stub envelopes in a manner not authorized by law.

(b) The ballots, [and] ballot boxes, ballot stubs, and stub envelopes at a polling place shall be in plain view of at least one election officer from the time the polls open for voting until the precinct returns have been certified.

(c) A presiding election judge commits an offense if the judge fails to prevent another person from handling a ballot box containing voters' marked ballots or an envelope containing voters' signed ballot stubs in an unauthorized manner or from making an unauthorized entry into the ballot box or envelope. An offense under this subsection is a Class A misdemeanor.

SECTION 4. Section 62.006, Election Code, is amended to read as follows:

Sec. 62.006. PLACING BOX AND ENVELOPE FOR DEPOSIT OF MARKED BALLOTS AND STUBS. The ballot box to be used by the voters to deposit marked ballots shall be locked. The ballot box and envelope no. 5 shall be [and] placed where they [it] will be in plain view of the election officers, watchers, and persons waiting to vote.

SECTION 5. Chapter 62, Election Code, is amended by adding Section 62.0081 to read as follows:

Sec. 62.0081. Presiding Judge to Prepare Ballot Stubs. (a) The presiding judge shall enter on each ballot stub to be used at the polling place the same number that appears on the corresponding ballot, the designation of the nature of the election, and the date of the election.

(b) The preparation of ballot stubs need not be completed before the polls open, but an unprepared stub may not be made available for selection by the voters.

(c) The presiding judge shall clip the ballot stub and envelope for its enclosure to the corresponding ballot.

SECTION 6. Section 62.009, Election Code, is amended by adding Subsection (c) to read as follows:

(c) The ballots with stubs shall be placed separately from the regular ballots.

SECTION 7. Section 63.008, Election Code, is amended to read as follows:

Sec. 63.008. VOTER WITHOUT CERTIFICATE WHO IS ON LIST.

(a) A voter who does not present a voter registration certificate when offering to vote, but whose name is on the list of registered voters for the precinct in which the voter [he] is offering to vote, shall be accepted for voting if the voter executes an affidavit stating that the voter [he] does not have the voter's [his] voter registration certificate in the voter's [his] possession at the polling place at the time of offering to vote and:

(1) the voter presents proof of identification in a form described by Section 63.0101; or

(2) the affidavit is also signed by a person who is working at the polling place and who attests to the identity of the voter.

(b) If the requirements prescribed by Subsection (a) are not met, the voter may not be accepted for voting, and an election officer shall indicate beside the voter's name on the list of registered voters that the voter was rejected under this section.

SECTION 8. Section 63.009, Election Code, is amended to read as follows:

Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST. (a) Except as provided by Subsection (b), a [A] voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, shall be accepted for voting if[:

~~[(1) an election officer can determine from the voter registrar that the person is a registered voter of the county, and the voter executes the affidavits required by Sections 63.007 and 63.008; or~~

[(2)] the voter presents proof of identification and executes an affidavit in accordance with Section 63.010.

(b) If an election officer can determine from the voter registrar that the person is a registered voter of the county, the affidavits required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.010 in complying with that section. After the voter is accepted under this subsection [Subsection (a)(1)], an election officer shall also indicate beside the voter's name on the poll list that the voter was accepted under this section.

SECTION 9. Sections 63.010(d) and (e), Election Code, are amended to read as follows:

(d) The presiding judge shall inform a voter of a challenge and of the issues raised by the challenge. The presiding judge shall [may] request the [a] voter to present proof of identification in a form described by Section 63.0101 and to execute an affidavit that states the facts necessary to support the voter's eligibility to vote. On presentation of the required proof of identification and affidavit, the presiding judge shall determine the voter's identity. If the voter fails to present the required proof of identification, the presiding judge cannot verify the voter's identity from the proof presented, or the voter refuses to execute an affidavit, the voter may not be accepted for voting, and an election

officer shall indicate on the affidavit or, if none, on a written statement containing the voter's name and any known residence address, and, if applicable, on the list of registered voters beside the voter's name that the voter was rejected under this section. After determining the voter's identity, the presiding judge shall return the documentation of proof to the voter[-; if available. — A voter's failure to present proof of identification does not affect the voter's right to vote under this section].

(e) If a ~~[the]~~ challenged voter whose identity is verified executes an affidavit that states the facts necessary to support the voter's eligibility to vote, the voter shall be accepted, and "sworn" shall be entered on the poll list beside the voter's name. If the voter's ~~[challenged voter does not execute an]~~ affidavit does not state ~~[that states]~~ the facts necessary to support the voter's eligibility to vote, the voter may not be accepted for voting, and an election officer ~~["rejected"]~~ shall indicate on the affidavit and, if applicable, [be entered] on the list of registered voters beside the voter's name that the voter was rejected under this section.

SECTION 10. Chapter 63, Election Code, is amended by adding Section 63.0101 to read as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. The following documentation is acceptable as proof of identification under this chapter:

(1) a driver's license or personal identification card issued to the person by the Department of Public Safety or a similar document issued to the person by an agency of another state, regardless of whether the license or card has expired;

(2) a form of identification containing the person's photograph that establishes the person's identity;

(3) a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;

(4) United States citizenship papers issued to the person;

(5) a United States passport issued to the person;

(6) pre-printed checks containing the person's name that are issued for a financial institution doing business in this state;

(7) official mail addressed to the person by name from a governmental entity;

(8) two other forms of identification that establish the person's identity;

or

(9) any other form of identification prescribed by the secretary of state.

SECTION 11. Section 64.001, Election Code, is amended to read as follows:

Sec. 64.001. VOTER TO SELECT AND PREPARE BALLOT; Deposit of Stub. (a) After a voter is accepted for voting, the voter shall select a ballot, go to a voting station, and prepare the ballot, except as provided by Subsection (b).

(b) A voter who executes an affidavit in accordance with Section 63.010 shall select a ballot with a stub and, before going to a voting station:

(1) unclip the stub and envelope from the ballot;

(2) sign the stub and enclose it in the envelope; and

(3) seal the envelope and give it to an election officer.

(c) The election officer shall deposit the ballot stub enclosed in its envelope in envelope no. 5.

SECTION 12. Section 65.005, Election Code, is amended by adding Subsection (d) to read as follows:

(d) If a ballot with a signed stub is found, the stub shall be enclosed and sealed in an envelope and deposited in envelope no. 5 before the ballot is examined.

SECTION 13. Section 65.010(a), Election Code, is amended to read as follows:

(a) The following ballots may not be counted:

(1) a ballot that is not provided to the voter at the polling place;

(2) two or more ballots that are folded together in a manner indicating that they were folded together when deposited in the ballot box;

(3) a write-in envelope containing a write-in vote without an attached ballot; ~~or~~

(4) a ballot that has not been deposited in the ballot box used for the deposit of marked ballots; or

(5) a ballot with an unsigned stub.

SECTION 14. Section 66.003, Election Code, is amended to read as follows:

Sec. 66.003. ENVELOPES FOR DISTRIBUTION OF RECORDS.

(a) Five ~~Four~~ envelopes shall be furnished to each polling place for use in assembling and distributing the precinct election records.

(b) The envelopes shall be labeled and addressed as follows:

(1) "Envelope No. 1," addressed to the presiding officer of the local canvassing authority;

(2) "Envelope No. 2," addressed to the general custodian of election records;

(3) "Envelope No. 3," addressed to the presiding judge; ~~and~~

(4) "Envelope No. 4," addressed to the voter registrar; and

(5) "Envelope No. 5," addressed to the general custodian of election records.

SECTION 15. Section 66.021(b), Election Code, is amended to read as follows:

(b) The judge shall seal envelopes no. 1, no. 2, ~~and~~ no. 4, and no. 5 and lock ballot boxes no. 3 and no. 4 as soon as they are ready for distribution.

SECTION 16. Subchapter B, Chapter 66, Election Code, is amended by adding Section 66.0242 to read as follows:

Sec. 66.0242. CONTENTS OF ENVELOPE NO. 5. Envelope no. 5 must contain the ballot stubs.

SECTION 17. Section 66.051(b), Election Code, is amended to read as follows:

(b) The presiding judge shall deliver envelope no. 2, envelope no. 5, ballot box no. 3, and ballot box no. 4 and its key in person to the general custodian of election records.

SECTION 18. Section 66.058, Election Code, is amended by amending Subsections (b), (c), and (d) and adding Subsection (h) to read as follows:

(b) The voted ballots and ballot stubs shall be preserved securely in a locked room in the locked ballot box or sealed envelope, as applicable, in which they are delivered to the general custodian of election records. Except as permitted by this code, a ballot box containing voted ballots or an envelope containing ballot stubs may not be opened during the preservation period.

(c) If during the preservation period an authorized entry is made into a ballot box containing voted ballots or an envelope containing ballot stubs, when the purpose for the entry is fulfilled, the box or envelope shall be relocked or resealed, as applicable, and the box and key or envelope returned to the custodian.

(d) A custodian of a ballot box containing voted ballots or an envelope containing ballot stubs commits an offense if, during the preservation period prescribed by Subsection (a), the custodian:

(1) makes an unauthorized entry into the box or envelope; or

(2) fails to prevent another person from handling the box or envelope in an unauthorized manner or from making an unauthorized entry into the box or envelope.

(h) The ballot stubs shall be destroyed after expiration of the prescribed preservation period, subject to an extension of the period under Section 1.013. The ballot stubs are confidential information and are not subject to public inspection before they are destroyed.

SECTION 19. Section 66.059, Election Code, is amended to read as follows:

Sec. 66.059. RETRIEVING ERRONEOUSLY PLACED ELECTION RECORDS. (a) On written application by the presiding officer of the local canvassing authority or the presiding judge of the election precinct, a district judge of the county in which a ballot box containing voted ballots or an envelope containing ballot stubs is in custody may order the box or envelope opened to retrieve an election record that was erroneously placed in the box or envelope.

(b) The district judge shall post a notice of the date, hour, and place for opening the box or envelope on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision served by the general custodian of election records. The notice must remain posted continuously for the 24 hours immediately preceding the hour set for opening the box or envelope.

(c) Any interested person may observe the opening of the box or envelope.

(d) The district judge shall issue the orders necessary to safeguard the contents of a ballot box or envelope opened under this section.

SECTION 20. Subchapter A, Chapter 124, Election Code, is amended by adding Section 124.006 to read as follows:

Sec. 124.006. IMPLEMENTATION OF BALLOT STUB SYSTEM. The secretary of state shall prescribe the form of a ballot stub and ballot for use with a stub and the necessary procedures to implement the ballot stub system prescribed by Section 52.074 for use with each voting system used in this state.

SECTION 21. Section 221.008, Election Code, is amended to read as follows:

Sec. 221.008. EXAMINATION OF SECURED BALLOTS AND EQUIPMENT. A tribunal hearing an election contest may cause secured ballot boxes, envelopes, voting machines, voting devices, or other equipment used in the election to be unsecured to determine the correct vote count or any other fact that the tribunal considers pertinent to a fair and just disposition of the contest.

SECTION 22. Sections 273.041, 273.042, and 273.043, Election Code, are amended to read as follows:

Sec. 273.041. REQUEST TO EXAMINE BALLOTS. In the investigation of criminal conduct in connection with an election, a grand jury, on finding probable cause to believe an offense was committed, may request a district judge of the county served by the grand jury to order an examination of the voted ballots and the ballot stubs [~~voted~~] in the election.

Sec. 273.042. ORDER BY DISTRICT JUDGE. On request of a grand jury for an examination of voted ballots and ballot stubs, a district judge may order the custodian of the [~~voted~~] ballots and ballot stubs and the custodian of the keys to the ballot boxes to deliver the ballot boxes, [~~and the~~] keys, and envelopes to the grand jury.

Sec. 273.043. CONDUCT OF EXAMINATION. The examination of ballots and ballot stubs under this subchapter shall be conducted in secret before the grand jury.

SECTION 23. The secretary of state by rule shall prescribe any procedures necessary to implement this Act.

SECTION 24. This Act takes effect September 1, 1997.

SECTION 25. 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 438 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 438, A bill to be entitled An Act relating to the implementation of a controlled substances testing program to be administered to inmates housed in facilities operated by or under contract with the Texas Department of Criminal Justice.

On motion of Representative Alvarado, the house concurred in the senate amendments to **HB 438**.

(Stiles in the chair)

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

Amend **HB 438** as engrossed as follows:

- 1) On page 1, line 9, strike "board" and substitute "department".
- 2) On page 1, line 10, strike "by rule".

**HB 723 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 723, A bill to be entitled An Act relating to informed consent before the performance of a hysterectomy.

On motion of Representative Dukes, the house concurred in the senate amendments to **HB 723**.

(Speaker in the chair)

Senate Committee Substitute

CSHB 723, A bill to be entitled An Act relating to informed consent before the performance of a hysterectomy.

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

SECTION 1. Subchapter F, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended by adding Section 6.08 to read as follows:

Sec. 6.08. INFORMED CONSENT FOR HYSTERECTOMIES. (a) The panel shall develop and prepare written materials to inform a patient or person authorized to consent for a patient of the risks and hazards of a hysterectomy.

(b) The materials shall be available in English, Spanish, and any other language the panel considers appropriate. The information must be presented in a manner understandable to a layperson.

(c) The materials must include:

(1) a notice that a decision made at any time to refuse to undergo a hysterectomy will not result in the withdrawal or withholding of any benefits provided by programs or projects receiving federal funds or otherwise affect the patient's right to future care or treatment;

(2) the name of the person providing and explaining the materials;

(3) a statement that the patient or person authorized to consent for the patient understands that the hysterectomy is permanent and nonreversible and that the patient will not be able to become pregnant or bear children if she undergoes a hysterectomy;

(4) a statement that the patient has the right to seek a consultation from a second physician;

(5) a statement that the patient or person authorized to consent for the patient has been informed that a hysterectomy is a removal of the uterus through an incision in the lower abdomen or vagina and that additional surgery may be necessary to remove or repair other organs, including an ovary, tube, appendix, bladder, rectum, or vagina;

(6) a description of the risks and hazards involved in the performance of the procedure;

(7) a written statement to be signed by the patient or person authorized to consent for the patient indicating that the materials have been provided and explained to the patient or person authorized to consent for the patient and that

the patient or person authorized to consent for the patient understands the nature and consequences of a hysterectomy.

(d) The physician or health care provider shall obtain informed consent under this section and Section 6.05 of this Act from the patient or person authorized to consent for the patient before performing a hysterectomy unless the hysterectomy is performed in a life-threatening situation in which the physician determines obtaining informed consent is not reasonably possible. If obtaining informed consent is not reasonably possible, the physician or health care provider shall include in the patient's medical records a written statement signed by the physician certifying the nature of the emergency.

(e) The panel may not prescribe materials under this section without first consulting with the Texas State Board of Medical Examiners.

SECTION 2. (a) This Act takes effect September 1, 1997.

(b) The Texas Medical Disclosure Panel shall prescribe the form and content of the materials required to be distributed under Section 6.08, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), as added by this Act, not later than January 1, 1998.

(c) This Act applies only to a hysterectomy that is performed at least 90 days after the date that notice of the adoption of the initial form and content of the materials required to be distributed under Section 6.08, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), as added by this Act, is published in the Texas Register.

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.

HB 970 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 970, A bill to be entitled An Act relating to the transportation of hazardous materials in certain municipalities.

On motion of Representative McClendon, the house concurred in the senate amendments to **HB 970** by (Record 587): 139 Yeas, 0 Nays, 1 Present, not voting.

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

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Flores.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Garcia; Sadler.

Senate Committee Substitute

CSHB 970, A bill to be entitled An Act relating to the transportation of hazardous materials in certain municipalities.

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

SECTION 1. Section 7, Article 6675d, Revised Statutes, is amended by adding Subsection (f) to read as follows:

(f) A municipality with a population of more than 750,000 shall develop a route for commercial motor vehicles carrying hazardous materials on a road or highway in the municipality. The municipality shall submit the route to the Texas Department of Transportation for approval. If the Texas Department of Transportation determines that the route complies with all applicable federal and state regulations regarding the transportation of hazardous materials, the transportation department shall approve the route and notify the municipality of the approved route.

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

HB 972 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative J. Jones called up with senate amendments for consideration at this time,

HB 972, A bill to be entitled An Act relating to systems for providing access to driver's license record information held by the Department of Public Safety.

Representative J. Jones 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 972**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 972**: J. Jones, chair, Carter, Driver, Hodge, and Oakley.

**HB 976 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 976, A bill to be entitled An Act relating to the abolition of the Texas Workers' Compensation Insurance Facility and the transfer of the assets and liabilities of that facility.

Representative Brimer 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 976**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 976**: Brimer, chair, Corte, Counts, Elkins, and Junell.

**HB 1107 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1107, A bill to be entitled An Act relating to the continuation and functions of the State Preservation Board.

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 1107**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 1107**: Telford, chair, Bosse, Chisum, Goolsby, and Gray.

**HB 1142 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1142, A bill to be entitled An Act relating to the determination of the inmate population of a county jail.

On motion of Representative Patterson, the house concurred in the senate amendments to **HB 1142** by (Record 588): 139 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; 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.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nay — Heflin.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Flores.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Garcia.

STATEMENT OF VOTE

I was shown voting yes on Record No. 588. I intended to vote no.

Crabb

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

HB 1142 is amended by striking Section 1 of the bill and substituting the following:

SECTION 1. Section 511.0101(b), Government Code, is amended to read as follows:

(b) The commission shall prescribe a form for the report required by this section. If the report establishes that a county jail has been operated in excess of its total capacity for three consecutive months, the commission may consider adoption of an order to prohibit confinement of prisoners in the county jail under Section 511.012.

HB 1230 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 1230, A bill to be entitled An Act relating to the place of detention for juveniles in certain counties and to the use or establishment of certain criminal detention facilities.

Representative Place 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 1230**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 1230**: Place, chair, Culberson, McReynolds, A. Reyna, and Staples.

**HB 1305 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1305, A bill to be entitled An Act relating to safety consultations.

Representative Brimer 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 1305**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 1305**: Brimer, chair, Denny, Giddings, Solomons, and Woolley.

**HB 1324 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1324, A bill to be entitled An Act relating to the administration and financing of emergency communications.

On motion of Representative Carter, the house concurred in the senate amendments to **HB 1324**.

Senate Committee Substitute

CSHB 1324, A bill to be entitled An Act relating to the administration and financing of emergency communications.

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

SECTION 1. Section 771.051, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) The advisory commission may obtain a commercial license or sublicense to sell 9-1-1 or poison control public education and training materials in this state or in other states. The advisory commission may use all profits from sales for purposes of the commission.

SECTION 2. Subchapter C, Chapter 771, Health and Safety Code, is amended by adding Sections 771.061 and 771.062 to read as follows:

Sec. 771.061. CONFIDENTIALITY OF INFORMATION. (a) Information

that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service is confidential and is not available for public inspection. Information that is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service is confidential and is not available for public inspection. The service provider or third party is not liable to any person who uses a computerized 9-1-1 service for the release of information furnished by the service provider or third party in providing computerized 9-1-1 service, unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(b) Information that a service provider of telecommunications service furnishes to the advisory commission, a regional planning commission, or an emergency communication district to verify or audit emergency service fees or surcharge remittances and that includes access line or market share information of an individual service provider is confidential and not available for public inspection.

Sec. 771.062. LOCAL ADOPTION OF STATE RULE. (a) An emergency communication district may adopt any provision of this chapter or any advisory commission rule. The advisory commission may enforce a provision or rule adopted by an emergency communication district under this section.

(b) The advisory commission shall maintain and update at least annually a list of provisions or rules that have been adopted by emergency communication districts under this section.

SECTION 3. Section 771.073, Health and Safety Code, is amended by adding Subsection (g) to read as follows:

(g) A 9-1-1 service provider is responsible for correctly billing and remitting applicable 9-1-1 fees, charges, and equalization surcharges. Any 9-1-1 fees, charges, or equalization surcharges erroneously billed to a subscriber by a 9-1-1 service provider and erroneously remitted to the advisory commission, a regional planning commission, or an emergency communication district may not be recovered from the advisory commission regional planning commission, or emergency communication district, unless the fees or charges were adjusted due to a refund to the subscriber by the local exchange carrier or interexchange carrier.

SECTION 4. Section 771.074, Health and Safety Code, is amended to read as follows:

Sec. 771.074. EXEMPTION. A fee or surcharge authorized by this subchapter, Chapter 772, or a home-rule municipality may not be imposed on or collected from the state.

SECTION 5. This Act takes effect September 1, 1997.

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 1465 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1465, A bill to be entitled An Act relating to the regulation of staff leasing services companies; providing penalties.

On motion of Representative Haggerty, the house concurred in the senate amendments to **HB 1465**.

Senate Amendment No. 1

Amend **HB 1465** as follows:

(1) In SECTION 1, amend Sec. 91.001(7) (the definition of controlling person) to read as follows:

(7) "Controlling person" means an individual who:

(A) possesses direct or indirect control of 25 percent [an officer or director of a corporation that offers or proposes to offer staff leasing services, a shareholder holding 10 percent] or more of the voting securities [stock] of a corporation that offers or proposes to offer staff leasing services; or a partner of a partnership that offers or proposes to offer staff leasing services]; [or]

(B) possesses the authority to set policy and direct management of a company that offers or proposes to offer staff leasing services;

(C) is employed, appointed, or authorized by a company that offers or proposes to offer staff leasing services to enter into a contract with a client company on behalf of the company; or

(D) a person who is an officer or director of a corporation or a general partner of a partnership that offers or proposes to offer staff leasing services [an individual who directly or indirectly has the power to direct or cause the direction of the management or policies of a company that offers or proposes to offer staff leasing services through:]

[(i) the ownership of voting securities;]

[(ii) contract; or]

[(iii) another means].

(2) In SECTION 8, amend Sec. 91.015(d) to read as follows and add a Subsection (f):

Sec. 91.015. LICENSE APPLICATION. (a) To receive a staff leasing services company original ~~or renewal~~ license, a person shall ~~must~~ file with the department a written application accompanied by the application fee.

(b) The department shall ~~may~~ require an applicant for a license to provide information ~~[and certifications]~~ necessary to determine that the applicant meets the licensing requirements of this chapter. The department shall ~~may~~ also require the applicant to provide information ~~[and certifications]~~ necessary to determine whether individuals affiliated with the applicant are qualified to serve as controlling persons.

(c) Before denying a license application, the department shall provide written notice to an applicant specifying the reasons for the denial. [An applicant or license holder is ineligible for a license for two years after the date of a final department action on the denial or revocation of a license applied for or issued under this chapter. This restriction does not apply to a denial or revocation of a license because of:]

[(1) an inadvertant error or omission in the application if that error or omission is promptly corrected;]

[(2) insufficient experience documented to the department at the time of the previous application; or]

~~[(3) the inability of the department to complete the criminal background investigation required under Section 91.013 because of insufficient information received from a local, state, or federal law enforcement agency.]~~

~~(d) Removal, demotion, or discharge of a controlling person in response to an order of the department of the alleged unsuitability of that controlling person is an affirmative defense to any claim by that individual based on the removal, demotion, or discharge. [An applicant or license holder is ineligible for a license for one year after the date of a final department action on the denial or revocation of a license applied for or issued under this chapter if the reason for the denial or revocation was that one or more of the controlling persons affiliated with the applicant or license holder was determined by the department to be unsuitable and each unsuitable controlling person has in fact ceased to be a controlling person of the applicant or license holder.]~~

~~(e) A controlling person who has been evaluated by the department under this chapter is not required to be reevaluated if that person changes the person's affiliation or employment from one applicant or license holder to another applicant or license holder.~~

~~(f) Following denial or revocation of a license, and prior to issuing a new license or reinstating a license, the Department shall consider:~~

~~(1) the extent to which the applicant or license holder has adequately corrected any problems; and~~

~~(2) whether the applicant or license holder has demonstrated that the applicant or license holder had exercised due diligence to avoid the reason or reasons for the denial or revocation.~~

~~The applicant or license holder shall bear the burden of proof with respect to Subdivisions (1) and (2).~~

~~(3) In SECTION 14, amend 91.021(a) to read as follows:~~

~~Sec. 91.021. SANCTIONS [DISCIPLINARY—PROCEDURES; REINSTATEMENT] (a) On a finding that a ground for disciplinary action exists under one or more provisions of Section 91.020(a), the department shall impose administrative sanctions as provided in Section 17, Article 9100, Revised Statutes; provided however, for the purposes of this Act, the department may impose an administrative penalty in an amount not less than \$1,000 for each violation, but not more than \$50,000 [may:~~

~~[(1) deny an application for a license;~~

~~[(2) revoke, restrict, or refuse to renew a license;~~

~~[(3) impose an administrative penalty in an amount not less than \$1,000 for each violation, but not more than \$50,000;~~

~~[(4) issue a reprimand; or~~

~~[(5) place the license holder on probation for the period and subject to conditions that the department specifies].~~

~~(4) deleting SECTION 16; and~~

~~(5) In SECTION 22, replace the existing language in Subsection (i) with the following:~~

~~(i) An assigned employee of a staff leasing services company is considered to have left the assigned employee's last work without good cause if the staff leasing services company demonstrates that:~~

~~(1) the staff leasing services company gave written notice to the~~

assigned employee to contact the staff leasing services company on termination of assignment at a client company; and

(2) the assigned employee did not contact the staff leasing services company regarding reassignment or continued employment; provided that the assigned employee may show that good cause existed for the assigned employee's failure to contact the staff leasing services company.

HB 1468 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1468, A bill to be entitled An Act relating to the Ector County Independent School District model career-targeted transition program.

On motion of Representative West, the house concurred in the senate amendments to **HB 1468**.

Senate Committee Substitute

CSHB 1468, relating to the Ector County Independent School District model career-targeted transition program.

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

SECTION 1. Subchapter F, Chapter 29, Education Code, is amended by adding Section 29.186 to read as follows:

Sec. 29.186. PILOT PROJECT. (a) The Ector County Independent School District may conduct a pilot project for a career-targeted program.

(b) The program may develop, implement, and assess a high school program with an integrated curriculum to provide high school graduates with the elements necessary to develop a strong work ethic, academic, technological, and communications skills, the ability to work as part of a team, and specific career goals and skills. The program must provide students with the information and training necessary for competency in curriculum areas and must assess student competency.

(c) Notwithstanding any other provision of this code, the program shall:

(1) offer a curriculum consistent with Sec. 28.002 (a);

(2) establish graduation requirements consistent with rules adopted under 28.025 but which reflect integrated curriculum and course requirements;

(3) administer the assessment instrument required under 39.023 (b);

and

(4) be exempt from administering assessment instruments required under 39.023 (c).

(d) Using state funds appropriated for that purpose, the agency shall monitor, evaluate and assess the development and implementation of the program.

(e) This section expires August 31, 2007.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that

this Act take effect and be in force from and after its passage, and it is so enacted.

**HB 1516 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1516, A bill to be entitled An Act relating to the creation of a record keeping system for assisting law enforcement in the location of missing children.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 1516**.

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

Amend the engrossed version of **HB 1516**, on page 1, line 13, after the word "tuition" and before the ".", by adding "and has more than 25 students enrolled and attending courses at a single location".

**HB 1908 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1908, A bill to be entitled An Act relating to the placement of signage on certain public roads.

On motion of Representative Siebert, the house concurred in the senate amendments to **HB 1908**.

Senate Committee Substitute

CSHB 1908, A bill to be entitled An Act relating to the placement of signs along certain public roads.

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

SECTION 1. Section 393.002, Transportation Code, is amended to read as follows:

Sec. 393.002. SIGN PLACEMENT PROHIBITED. Except as provided by Section 393.0025, a [A] person may not place a sign on the right-of-way of a public road unless the placement is authorized by state law.

SECTION 2. Chapter 393, Transportation Code, is amended by adding Section 393.0025 to read as follows:

Sec. 393.0025. MUNICIPAL AUTHORITY TO REGULATE SIGN PLACEMENT. A person may not place a sign on the right-of-way of a road or highway maintained by a municipality unless the placement is authorized by the municipality.

SECTION 3. This Act takes effect September 1, 1997.

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 1908** by striking SECTION 2 of the bill and substituting the following:

SECTION 2. Chapter 393, Transportation Code, is amended by adding Section 393.0025 to read as follows:

Sec. 393.0025. MUNICIPAL AUTHORITY TO REGULATE SIGN PLACEMENT. (a) A person may not place a sign on the right-of-way of a road or highway maintained by a municipality unless the placement is authorized by the municipality.

(b) This section does not apply to the right-of-way of a road or highway in the state highway system.

**HB 1971 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1971, A bill to be entitled An Act relating to usury and the regulation of lenders.

Representative Marchant 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 1971**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 1971**: Marchant, chair, Ehrhardt, Grusendorf, Patterson, and Smith.

**HB 2065 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2065, A bill to be entitled An Act relating to the statistical recording of juvenile cases initially referred to the office of the prosecuting attorney.

On motion of Representative King, the house concurred in the senate amendments to **HB 2065** by (Record 589): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; 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; King; Krusee; Kubiak; Kuempel;

Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Flores.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Garcia; Keffer; Moreno.

STATEMENT OF VOTE

When Record No. 589 was taken, I was in the house but away from my desk. I would have voted yes.

Keffer

Senate Amendment No. 1

Amend **HB 2065** as follows:

On page 1, line 18, strike the word "promptly" and substitute in lieu thereof "within three business days".

HB 2332 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2332, A bill to be entitled An Act relating to permitting the Board of Regents of The University of Texas System to convey certain real property to a political subdivision located in Hidalgo County.

On motion of Representative Hinojosa, the house concurred in the senate amendments to **HB 2332**.

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

Amend **HB 2332** as follows:

(1) On page 1, line 9, after "subdivision" after before "real property" insert "an interest in."

(2) On page 1, line 12, strike "the" and substitute "a".

(3) On page 1, line 13, after "Act" and before ", the" insert "to establish a special events center".

(4) On page 2, between lines 6 and 7, insert the following:

(f) Section 31.159, Natural Resources Code, shall not apply to a contract entered into under this section.

**HB 2577 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2577, A bill to be entitled An Act relating to the Texas Department of Housing and Community Affairs and to low income and affordable housing.

Representative Hill 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 2577**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 2577**: Hill, chair, Bailey, Clark, Cuellar, and Ehrhardt.

**HB 2866 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2866, A bill to be entitled An Act relating to the completion, filing, and registration of certain death records.

On motion of Representative Chavez, the house concurred in the senate amendments to **HB 2866**.

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

Amend the engrossed version of **HB 2866**, on page 2, lines 6 and 24, by striking "three" and inserting the word "five".

**HB 2736 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2736, A bill to be entitled An Act relating to risk pools established by political subdivisions to provide liability coverage.

On motion of Representative Uher, the house concurred in the senate amendments to **HB 2736**.

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

Amend **HB 2736** in Section 119.012(b)(2)(B), Local Government Code, as added by SECTION 1 of the bill (page 2, lines 4-6, House Engrossment), by striking "not later than the 72nd hour after the time the agreement is made, and prior to formal action by the governing body," and substituting "not later than the 72nd hour before the governing body takes formal action with respect to the agreement,".

Senate Amendment No. 2

Amend **HB 2736** as follows:

On page 1, line 39, SECTION 1. Chapter 119, Local Government Code, proposed Section 119.012 by inserting a "," after the word "body" and adding, "or authorized agent,"

Senate Amendment No. 3

Amend **HB 2736** as follows:

HB 2736 is amended by adding a new Section 2 to read as follows and renumbering the present Section 2 and all subsequent sections appropriately:

On page 2, line 16, SECTION 2. Chapter 119, Local Government Code, is amended by adding Section 119.014 to read as follows:

Sec. 119.014 APPLICATION REQUIREMENTS. The requirements of Section 119.012 shall apply to cancellation of, or any change to the terms or conditions of, a contractual obligation to indemnify for liability for the acts or omissions of a county or its officers and employees provided to any county through any intergovernmental risk sharing pool or insurance coverage.

**HB 2984 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2984, A bill to be entitled An Act relating to the establishment of a pilot program regarding the care, rehabilitation, and education of medically fragile children and their families.

On motion of Representative Hunter, the house concurred in the senate amendments to **HB 2984**.

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

Amend **HB 2984** by striking SECTION 3 of the bill and substituting the following:

SECTION 3. This Act takes effect September 1, 1997, but only if the 75th Legislature appropriates money to fund the pilot program to assist medically fragile children and their families as required by Section 35.015, Health and Safety Code, as added by this Act. The Texas Board of Health shall select an entity to run the pilot program required under Section 35.017, Health and Safety Code, as added by this Act, not later than January 1, 1998.

**HB 3062 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3062, A bill to be entitled An Act relating to comprehensive revisions to Subchapter B, Chapter 56, Code of Criminal Procedure, the Crime Victims' Compensation Act.

On motion of Representative Hightower, the house concurred in the senate amendments to **HB 3062**.

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

Amend **HB 3062** as follows:

(1) Insert at Subdivision (9) of SECTION 1 of the bill (Engrossed Printing page 5, line 12) "and necessary travel expenses" between "earnings" and "because".

(2) Add at Subdivision (9) of SECTION 1 of the bill (Engrossed Printing page 5, line 20) "and participation in or attendance at any post conviction or post adjudication proceeding relating to criminally injurious conduct" after "conduct".

**HB 3088 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3088, A bill to be entitled An Act relating to the notice required to be given in a proceeding to determine heirship.

On motion of Representative Hartnett, the house concurred in the senate amendments to **HB 3088**.

Senate Committee Substitute

CSHB 3088, A bill to be entitled An Act relating to the notice required to be given in a proceeding to determine heirship.

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

SECTION 1. Sections 50(a) and (b), Texas Probate Code, are amended to read as follows:

(a) Citation shall be served by registered or certified mail upon all distributees 12 years of age or older whose names and addresses are known, or whose names and addresses can be learned through the exercise of reasonable diligence, provided that the court may in its discretion require that service of citation shall be made by personal service upon some or all of those named as distributees in the application. Citation shall be served as provided by this subsection on the parent, managing conservator, or guardian of a distributee who is younger than 12 years of age, if the name and address of the parent, managing conservator, or guardian is known or can be reasonably ascertained.

(b) If the address of a person or entity on whom citation is required to be served [~~Unknown heirs, and known heirs whose addresses~~] cannot be ascertained, citation shall be served on the person or entity by publication in the county in which the proceedings are commenced, and if the decedent resided in another county, then a citation shall also be published in the county of his last residence. Unknown heirs shall also be served by publication in the manner provided by this subsection.

SECTION 2. This Act takes effect September 1, 1997, and applies only to an application for determination of heirship filed on or after that date. An application for determination of heirship filed before the effective date of this Act is governed by the law in existence on the date on which the application was filed, and the former law is continued in effect for that purpose.

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.

**HB 3116 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3116, A bill to be entitled An Act relating to work supplementation programs for certain welfare recipients.

On motion of Representative Greenberg, the house concurred in the senate amendments to **HB 3116**.

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

Amend **HB 3116** as follows:

In SECTION 1 of the bill, in proposed Section 2308.314, (engrossed version, between page 2, line 27 and page 3, line 1), insert new Subsections (f) and (g) to read as follows:

(f) Not later than December 15, 1998, the commission shall prepare and issue to the governor, the lieutenant governor, and the speaker of the house of representatives an assessment of the impact of this section on the ability of recipients of public assistance to obtain employment.

(g) This section expires September 1, 2003.

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

Amend **HB 3116** as follows:

(1) In SECTION 1 of the bill, in proposed Section 2308.314(a)(1)(B), Government Code (engrossed version, page 1, line 15), strike "90" and substitute "30".

(2) In SECTION 1 of the bill, in proposed Section 2308.314(b), Government Code (engrossed version, page 1, lines 20-23 and page 2, line 3), strike Subdivision (2) and renumber current Subdivisions (3) and (4) as (2) and (3), respectively.

**HB 3194 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3194, A bill to be entitled An Act relating to the construction and operation of certain sour gas pipeline facilities.

On motion of Representative Alexander, the house concurred in the senate amendments to **HB 3194** by (Record 590): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver;

Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Gallego; Galloway; 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.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

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

Absent, Excused — Corte; Flores.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Coleman; Garcia; Rabuck; Zbranek.

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

Amend **HB 3194**, as follows:

(1) On page 1, line 16, insert "initial" between "the" and "construction".

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

Amend **HB 3194**, as follows:

(1) On page 1, line 22, insert the following new subsection (4), and renumber the subsequent subsections accordingly:

(4) "Low pressure gathering system" means a pipeline which operates at a working pressure of less than fifty (50) pounds per square inch.

(2) On page 2, line 14, insert the following new subsection (2), and renumber the subsequent subsections accordingly:

(2) a new or an extension of a low pressure gathering system.

HB 3370 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3370, A bill to be entitled An Act relating to a gift, political contribution or activity of an officer or employee of the Texas Lottery Commission or a former officer or employee of the Texas Lottery Commission.

On motion of Representative Junell, the house concurred in the senate amendments to **HB 3370**.

Senate Committee Substitute

CSHB 3370, A bill to be entitled An Act relating to a gift, political contribution or activity of an officer or employee of the Texas Lottery Commission or a former officer or employee of the Texas Lottery Commission.

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

SECTION 1. Section 467.001, Government Code, is amended to read as follows:

Sec. 467.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Lottery Commission.

(2) "Executive director" means the executive director of the Texas Lottery Commission.

(3) "Communicate directly with" has the meaning assigned by Section 305.002, Government Code.

(4) "Gift" includes a gratuity, trip, meal, or other thing of value for which the recipient does not compensate the person making the gift and that is not conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient.

(5) "Legislation" has the meaning assigned by Section 305.002.

(6) "Member of the legislative branch" has the meaning assigned by Section 305.002.

(7) "Participated" means to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, or similar action.

(8) "Particular matter" includes an investigation, an application, a request for a ruling or determination, a license proceeding, rulemaking, a contract, a controversy, a claim, a charge, an accusation, an arrest, or a judicial or other proceeding.

(9) "Person that has a significant financial interest in the lottery" means:

(A) a person or a board member, officer, trustee, or general partner of a person that manufactures, distributes, sells, or produces lottery equipment, supplies, services, or advertising;

(B) an employee of a person that manufactures, distributes, sells, or produces lottery equipment, supplies, services, or advertising and that employee is directly involved in the manufacturing, distribution, selling, or production of lottery equipment, supplies, services, or advertising;

(C) a person or a board member, officer, trustee, or general partner of a person that has made a bid to operate the lottery in the preceding two years or that intends to make a bid to operate the lottery or an employee of the person if the employee is directly involved in making the bid; or

(D) a sales agent.

(10) "Political committee" has the meaning assigned by Section 251.001, Election Code.

(11) "Political contribution" has the meaning assigned by Section 251.001, Election Code.

SECTION 2. Subchapter C, Chapter 467, Government Code, is amended by adding Section 467.106 to read as follows:

Sec. 467.106. GIFT OR POLITICAL CONTRIBUTION TO OFFICER OR EMPLOYEE. (a) A commission member, the executive director, or an employee of the commission may not intentionally or knowingly accept a gift or political contribution from:

(1) a person that has a significant financial interest in the lottery;

(2) a person related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) a person that owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) a person who, within the two years preceding the date of the gift or contribution, won a lottery prize exceeding \$600 in amount or value.

(b) A person may not make a gift or political contribution to a person known by the actor to be a commission member, the executive director, or an employee of the commission, if the actor:

(1) has a significant financial interest in the lottery;

(2) is related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) is a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) within the two years preceding the date of the gift or contribution, won a lottery prize exceeding \$600 in amount or value.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

SECTION 3. Subchapter C, Chapter 467, Government Code, is amended by adding Section 467.107 to read as follows:

Sec. 467.107. GIFT OR POLITICAL CONTRIBUTION TO FORMER OFFICER OR EMPLOYEE. (a) A former commission member, former executive director, or former employee of the commission may not, before the second anniversary of the date that the person's service in office or employment with the commission ceases, intentionally or knowingly accept a gift or political contribution from:

(1) a person that has a significant financial interest in the lottery;

(2) a person related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) a person that owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) a person who, within the two years preceding the date of the gift or contribution, won a lottery prize exceeding \$600 in amount or value.

(b) A person may not make a gift or political contribution to a person known by the actor to be a former commission member, former executive director, or former employee of the commission, if the actor:

(1) has a significant financial interest in the lottery;

(2) is related in the first degree of consanguinity or affinity to a person that has a significant financial interest in the lottery;

(3) owns more than a 10 percent interest in an entity that has a significant financial interest in the lottery;

(4) is a political committee that is directly established, administered, or controlled, in whole or in part, by a person that has a significant financial interest in the lottery; or

(5) within the two years preceding the date of the gift or contribution, won a lottery prize exceeding \$600 in amount or value.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

SECTION 4. Subchapter C, Chapter 467, Government Code, is amended by adding Section 467.108 to read as follows:

Sec. 467.108. REPRESENTATION BY FORMER OFFICER OR EMPLOYEE. (a) A former commission member, former executive director, or former director may not:

(1) for compensation, represent a person that has made or intends to make a bid to operate the lottery before the commission before the second anniversary of the date that the person's service in office or employment with the commission ceases;

(2) represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former officer or employee participated during the period of service or employment with the commission, either through personal involvement or because the matter was within the scope of the officer's or employee's official responsibility; or

(3) for compensation communicate directly with a member of the legislative branch to influence legislation on behalf of a person that has a significant financial interest in the lottery, before the second anniversary of the date that the person's service in office or employment with the commission ceases.

(b) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

SECTION 5. Sections 466.301, 466.314, 466.315, 466.316, and 467.025(c), Government Code, are repealed.

SECTION 6. This Act takes effect September 1, 1997.

SECTION 7. 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 3540 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3540, A bill to be entitled An Act relating to the election of commissioners of the Port of Beaumont Navigation District of Jefferson County.

Representative Price 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 3540**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 3540**: Price, chair, Counts, Edwards, McClendon, and Roman.

**HB 3583 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3583, A bill to be entitled An Act relating to zoning around Lake Somerville.

On motion of Representative Kubiak, the house concurred in the senate amendments to **HB 3583**.

Senate Amendment No. 1

Amend **HB 3583** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 231, Local Government Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. ZONING AROUND LAKE SOMERVILLE

Sec. 231.201. DEFINITIONS. In this subchapter:

(1) "Affected county" means Burleson, Milam, Lee, or Washington County.

(2) "Lake area" means the area within 5,000 feet of the project boundary line for Lake Somerville.

Sec. 321.202. LAKE SOMERVILLE PLANNING COMMISSION. (a) A lake planning commission is established for the lake area in Burleson, Milam, Lee, and Washington counties and is composed of:

(1) one resident of each affected county, appointed by the county judge of that county; and

(2) the presiding officer of the commission appointed by the county judge of Burleson County.

(b) Except for the initial appointed members, the appointed members of the commission are appointed for terms of two years expiring on February 1 of each odd-numbered year. The initial appointed members are appointed for terms expiring on the first February 1 of an odd-numbered year occurring after the date of their appointment.

(c) The commissioners court of the affected counties may employ staff for the use of the commission in performing its functions.

Sec. 231.203. COMMISSION STUDIES; REPORTS; HEARINGS. (a) At the request of the commissioners court of an affected county, the lake planning commission shall, or on its own initiative the commission may, conduct studies of the lake area in that county and prepare reports to advise the commissioners court about matters affecting the lake area in that county, including the need for zoning regulations in the lake area in that county.

(b) Before the commission may prepare a report, it must hold a public hearing at which members of the public may present testimony about any subject to be included in the commission's report. The commission shall give

notice of the hearing as required by the commissioners court of the affected county.

SECTION 2. This Act takes effect September 1, 1997.

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.

**HCR 215 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HCR 215, Directing the Health and Human Services Commission to implement cost-saving measures in the Medicaid prescription drug program.

On motion of Representative Delisi, the house concurred in the senate amendments to **HCR 215**.

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

Amend **HCR 215** as follows:

In the fourth resolving clause (page 2, lines 12-14) strike "in its design of the pilot program" and substitute "unless prohibited by federal law (P: 101-508, Omnibus Budget Reconciliation Act of 1990)".

**HB 3350 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3350, A bill to be entitled An Act relating to the criminal offenses applicable to gambling and gambling devices.

Representative Place 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 3350**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 3350**: Place, chair, Dunnam, Galloway, Hightower, and Keel.

SB 1437 - VOTE RECONSIDERED

Representative Greenberg moved to suspend all necessary rules to reconsider the vote by which **SB 1437** was passed on May 13.

The motion to reconsider prevailed.

**SB 1437 ON THIRD READING
(Greenberg - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

SB 1437, A bill to be entitled An Act relating to the exemption from and limitations on ad valorem taxes on the residence homestead of an elderly individual and the individual's surviving spouse and to the termination of that exemption if that homestead ceases to be the homestead of that elderly individual or surviving spouse.

SB 1437 was read third time on May 13 and was passed.

Amendment No. 1

Representative Greenberg offered the following amendment to **SB 1437**:

Amend **SB 1437** on third reading by striking SECTION 3 of the bill and substituting the following:

SECTION 3. Section 11.26, Tax Code, is amended by amending Subsection (a) and adding Subsections (g), (h), and (i) to read as follows:

(a) Except as provided by Subsection (b) [~~of this section~~], a school district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years or older above the amount of the tax it imposed in the first year the individual qualified that residence homestead for the exemption provided by [~~Subsection (c) of~~] Section 11.13(c) for an individual 65 years of age or older [11.13 of this code]. If the individual qualified that residence homestead for the exemption after the beginning of that first year, the maximum amount of taxes that a school district may impose on that residence homestead in a subsequent year is determined as provided by Section 26.112 as if the individual qualified that residence homestead for the exemption for that entire first year, except as provided by Subsection (b). If the individual qualified that residence homestead for the exemption after the beginning of that first year and the residence homestead remains eligible for the exemption for the next year, and if the school district taxes imposed on the residence homestead in the next year are less than the amount of taxes imposed in that first year, a school district may not subsequently increase the total annual amount of ad valorem taxes it imposes on the residence homestead above the amount it imposed in the year immediately following the first year for which the individual qualified that residence homestead for the exemption, except as provided by Subsection (b). The tax officials shall continue to appraise the property and to calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the tax imposed in the first year the individual qualified the residence homestead for the exemption.

(g) If an individual who qualifies for the exemption provided by Section 11.13(c) for an individual 65 years of age or older dies, the surviving spouse of the individual is entitled to the limitation applicable to the residence homestead of the individual if:

(1) the surviving spouse is 55 years of age or older when the individual dies; and

(2) the residence homestead of the individual:

(A) is the residence homestead of the surviving spouse on the date that the individual dies; and

(B) remains the residence homestead of the surviving spouse.

(h) If an individual who qualifies for an exemption provided by Section 11.13(c) for an individual 65 years of age or older dies in the first year in which the individual qualified for the exemption and the individual first qualified for the exemption after the beginning of that year, except as provided by Subsection (i), the amount to which the surviving spouse's school district taxes are limited under Subsection (g) is the amount of school district taxes imposed on the residence homestead in that year calculated under Section 26.112 as if the individual qualifying for the exemption had lived for the entire year.

(i) If in the first tax year after the year in which an individual dies in the circumstances described by Subsection (h) the amount of school district taxes imposed on the residence homestead of the surviving spouse is less than the amount of school district taxes imposed in the preceding year as limited by Subsection (h), in a subsequent tax year the surviving spouse's school district taxes on that residence homestead are limited to the amount of taxes imposed by the district in that first tax year after the year in which the individual dies.

Amendment No. 1 was adopted without objection.

A record vote was requested.

SB 1437, as amended, was passed by (Record 591): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; Giddings; Glaze; Goodman; 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.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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; West; Williams; Williamson; Wilson; Wise; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Flores.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Davila; Garcia; Goolsby; Wohlgemuth.

SB 1161 - VOTE RECONSIDERED

Representative Hill moved to reconsider the vote by which **SB 1161** was passed earlier today.

The motion to reconsider prevailed.

**SB 1161 ON THIRD READING
(Hill - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

SB 1161, A bill to be entitled An Act relating to the authority of certain counties to contract with private entities for child support and visitation enforcement services.

SB 1161 was read third time earlier today, amended, and was passed.

Amendment No. 1 - Vote Reconsidered

Representative Hill moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion to reconsider prevailed.

Amendment No. 1 was withdrawn.

SB 1161 was passed.

**HB 951 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative S. Turner called up with senate amendments for consideration at this time,

HB 951, A bill to be entitled An Act relating to the Texas open records law.

Representative S. Turner 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 951**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 951**: S. Turner, chair, Greenberg, Maxey, Talton, and Hilbert.

**HB 1548 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative S. Turner called up with senate amendments for consideration at this time,

HB 1548, A bill to be entitled An Act relating to tuition and fees for certain students registered in a public junior college.

Representative S. Turner moved to discharge the conferees and concur in the senate amendments to **HB 1548**.

A record vote was requested.

The motion prevailed by (Record 592): 135 Yeas, 0 Nays, 1 Present, not voting.

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

Crabb; Craddick; Cuellar; Culberson; Danburg; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; Giddings; Glaze; Goodman; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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; West; Williams; Williamson; Wilson; Wise; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Flores.

Absent, Excused, Committee Meeting — Cook; Counts; Lewis, R.; Puente; Walker.

Absent — Davila; Dutton; Garcia; Goolsby; Jackson; Wohlgemuth.

Senate Committee Substitute

CSHB 1548, A bill to be entitled An Act relating to tuition and fees for certain students registered in a public junior college.

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

SECTION 1. Section 130.003(b), Education Code, is amended to read as follows:

(b) To be eligible for and to receive a proportionate share of the appropriation, a public junior college must:

(1) be certified as a public junior college as prescribed in Section 61.063 of this code;

(2) offer a minimum of 24 semester hours of vocational and/or terminal courses;

(3) have complied with all existing laws, rules, and regulations governing the establishment and maintenance of public junior colleges;

(4) collect, from each full-time and part-time student enrolled, matriculation and other session fees in the amounts required by law [~~Section 54.051 of this code, except, however, the governing board of a public junior college district may waive the difference in the rate of tuition for nonresident and resident students for a person, and his dependents, who owns property which is subject to ad valorem taxation by the junior college district~~];

(5) grant, when properly applied for, the scholarships and tuition exemptions provided for in this code; and

(6) for a public junior college established on or after September 1, 1986, levy and collect ad valorem taxes as provided by law for the operation and maintenance of the public junior college.

SECTION 2. Subchapter A, Chapter 130, Education Code, is amended by adding Section 130.0032 to read as follows:

Sec. 130.0032. TUITION FOR STUDENTS RESIDING OUTSIDE OF DISTRICT. (a) The governing board of a public junior college district may allow a person who resides outside the district and who owns property subject to ad valorem taxation by the district, or a dependent of the person, to pay tuition at the rate applicable to a student who resides in the district.

(b) The governing board of a public junior college district may allow a person who resides outside the district and in the taxing district of a contiguous public junior college district to pay tuition and fees at the rate applicable to a student who resides in the district.

(c) The governing board of a public junior college district may allow a person who resides outside the district to pay tuition and fees at a rate less than the rate applicable to other persons residing outside the district, but not less than the rate applicable to a student who resides in the district, if the person:

(1) resides within the service area of the district; and

(2) does not reside in an independent school district that meets the criteria of the coordinating board for the establishment of a junior college district under Section 130.013.

SECTION 3. This Act applies beginning with tuition and fees charged for the 1997 fall semester.

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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Senate Amendment No. 1

Amend **CSHB 1548** as follows:

On page 1, lines 50 through 59, strike Subsection (c) and substitute the following:

(c) The governing board of a public junior college district may allow a person who resides outside the district to pay tuition and fees at a rate less than the rate applicable to other persons residing outside the district, but not less than the rate applicable to a student who resides in the district, if the person:

(1) resides within the service area of the district;

(2) does not reside in an independent school district that meets the criteria of the coordinating board for the establishment of a junior college district under Section 130.013; and

(3) demonstrates financial need in accordance with rules adopted by the Texas Higher Education Coordinating Board.

SB 20 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Thompson, the house granted the request of the senate for the appointment of a conference committee on **SB 20**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 20**: Thompson, chair, Crabb, Glaze, Luna, and Zbranek.

HR 1182 - ADOPTED
(by Junell)

The speaker laid before the house the following privileged resolution:

HR 1182

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 768** to consider and take action on the following matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text to Section 451.002(c), Labor Code, to read as follows:

(c) The burden of proof in a proceeding under this section is on the employee to establish that an action of the employee protected under Section 451.001 was a substantial cause of the discrimination.

Explanation: This change is necessary to clarify the burden of proof in certain workers' compensation cases alleging discrimination.

HR 1182 was adopted without objection.

HR 1181 - ADOPTED
(by Rangel)

Representative Rangel moved to suspend all necessary rules to take up and consider at this time **HR 1181**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1181, In memory of Corporal Roel Garcia of the Department of Public Safety.

HR 1181 was unanimously adopted by a rising vote.

HCR 316 - ADOPTED
(by Gray)

Representative Gray moved to suspend all necessary rules to take up and consider at this time **HCR 316**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 316

WHEREAS, **HB 1445** 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 27 of the bill, in Section 6.091(d)(2), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), as added by the bill, strike "Subsection" and substitute "subdivision".

(2) In SECTION 37 of the bill, in Section 11.011(h), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), as added by the bill, strike "Subsection (d)(1) of this section" and substitute "Section 6.091(d)(1) of this Act".

(3) In SECTION 37 of the bill, in Section 11.011(i), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), as added by the bill, strike "Subsection (c)(1) of this section" and substitute "Section 6.091(c)(1) of this Act".

(4) In SECTION 37 of the bill, in Section 11.011(k), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), as added by the bill, strike "the effective date of this Act" and substitute "September 1, 1997".

(5) In SECTION 37 of the bill, in Section 11.011(l), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), as added by the bill, in the sentence that states "A greyhound racing association and the state greyhound breed registry shall each pay their own arbitration expenses", strike "their" and substitute "its".

HB 1445 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE GRAY: Mr. Speaker and members, this is a resolution to make some technical corrections on the racing bill. It changes the word subsection to subdivision to clarify a reference in the bill, cleans up a cross-reference in the bill where a number was omitted and also clarifies the effective date of the Act. In addition, there was a concern raised by the governor's office on this bill. As most of you know, in addition to the regulatory functions and reforms included in **HB 1445**, it also contained provisions related to expansion of simulcasting—particularly in the area of cross species simulcasting. I want to make it clear that, in consideration and passage of **HB 1445**, we took into account the Federal Interstate Horseracing Act. The bill was amended to ensure that the Texas Racing Commission fully complied with the provisions of the Federal Act as it would apply to the situations of any interstate horseracing simulcasting in Texas, including cross species simulcasting. Thank you members for the opportunity to clarify that particular point regarding this legislation.

REMARKS ORDERED PRINTED

Representative Gray moved to print remarks establishing legislative intent for **HB 1445**.

The motion prevailed without objection.

HCR 316 - (consideration continued)

HCR 316 was adopted without objection.

HR 1142 - ADOPTED (by Hinojosa)

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

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1142, In memory of Dan Sanborn.

HR 1142 was unanimously adopted by a rising vote.

HR 1143 - ADOPTED
(by Hinojosa)

Representative Hinojosa moved to suspend all necessary rules to take up and consider at this time **HR 1143**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1143, In memory of Loring Terrill Cook.

HR 1143 was unanimously adopted by a rising vote.

HR 1218 - ADOPTED
(by Thompson)

Representative Thompson moved to suspend all necessary rules to take up and consider at this time **HR 1218**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1218, Congratulating Barbara L. Taylor on her retirement from the Houston Independent School District.

HR 1218 was adopted without objection.

HR 1158 - ADOPTED
(by Longoria)

Representative Longoria moved to suspend all necessary rules to take up and consider at this time **HR 1158**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1158, Honoring the Christa McAuliffe Middle School yearbook staff for their work on Odyssey '96.

HR 1158 was adopted without objection.

ADJOURNMENT

Representative Kubiak moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed without objection.

The house accordingly, at 6:44 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were

today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HCR 309 (by Chavez), Directing the Finance Commission of Texas to encourage all financial institutions in Texas to participate in developing microloan programs.

To Financial Institutions.

HCR 310 (by Craddick), Honoring the chairman and board of directors of International Isotopes, Inc.

To Rules & Resolutions.

HCR 311 (by Craddick), Honoring Beverly Pevehouse and the late Joe Pevehouse for their contributions to Midland College.

To Rules & Resolutions.

HR 1126 (by Keel), Commending the Police Ice program on the occasion of its fifth anniversary.

To Rules & Resolutions.

HR 1127 (by Goolsby), Honoring the Texas Association of Insurance Agents on the occasion of its centennial.

To Rules & Resolutions.

HR 1128 (by Goolsby), Honoring Timothy J. Brady, president of the Texas Association of Insurance Agents.

To Rules & Resolutions.

HR 1137 (by Rhodes), Honoring Billy and Virginia Cozart on the occasion of their 50th wedding anniversary.

To Rules & Resolutions.

HR 1140 (by Wohlgenuth), Honoring pilot Linda Finch on her flight around the world.

To Rules & Resolutions.

HR 1141 (by Hodge), Honoring Mary Malone for her community service.

To Rules & Resolutions.

HR 1142 (by Hinojosa), In memory of Dan Sanborn.

To Rules & Resolutions.

HR 1143 (by Hinojosa), In memory of Loring Terrill Cook.

To Rules & Resolutions.

HR 1144 (by Yarbrough), Congratulating Jason Nicholas Swint on attaining the rank of Eagle Scout.

To Rules & Resolutions.

HR 1147 (by Holzheuser), Honoring David Baker for his achievements in gymnastics.

To Rules & Resolutions.

HR 1148 (by McClendon), Recognizing Jack and Almeda DeVaughn for their efforts in behalf of the Salado Creek Open Space Corridor and Nature Trail Study Group.

To Rules & Resolutions.

HR 1149 (by McClendon), Honoring Joe Goodman.
To Rules & Resolutions.

HR 1150 (by McClendon), Honoring Jerry Lehman.
To Rules & Resolutions.

HR 1151 (by McClendon), Honoring Jerry Kneupper.
To Rules & Resolutions.

HR 1152 (by McClendon), In memory of the San Antonio firefighters who have died in the line of duty.
To Rules & Resolutions.

HR 1153 (by McClendon), Honoring R. Elaine Miller.
To Rules & Resolutions.

HR 1154 (by West), Congratulating the Ector County Independent School District on receiving a 1997 Award for Excellence in Texas School Health.
To Rules & Resolutions.

HR 1155 (by McClendon), Honoring Glynn Bell for her contributions to the community.
To Rules & Resolutions.

HR 1156 (by McClendon), Honoring Arlene Washington for her contributions to the community.
To Rules & Resolutions.

HR 1157 (by McClendon), Honoring Mary Armstrong for her contributions to the community.
To Rules & Resolutions.

SIGNED BY THE SPEAKER

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

House List No. 72

HB 1706, HB 2005, HB 2018, HB 2067, HB 2082, HB 2084, HB 2096, HB 2099, HB 2424, HB 2438, HB 2462, HB 2469, HB 2502, HB 2506, HB 2555, HB 2573, HB 2584, HB 2587, HB 2745, HB 2750, HB 2887, HB 2899, HB 3037, HB 3048, HB 3075, HB 3104, HB 3158, HB 3161, HB 3224, HB 3440, HB 3441, HB 3478, HB 3513, HB 3517, HB 3530, HB 3556, HB 3570, HB 3576, HB 3588, HB 3589, HB 3592, HB 3597, HB 3603, HB 3605, HCR 26, HCR 67, HCR 116, HCR 118, HCR 143

House List No. 73

HB 787, HB 1062, HB 1133, HB 1572, HB 1937, HB 2115, HB 2157, HB 2397, HB 2512, HB 2606, HB 2747, HB 2807, HB 2830, HB 2856, HB 2873, HB 2875, HB 2915, HB 3063, HB 3092, HB 3266, HB 3345, HB 3538, HB 3550, HB 3574, HB 3586, HB 3609, HCR 14, HCR 82, HCR 85, HCR 202, HCR 261, HCR 265, HCR 272, HCR 297

Senate List No. 37

SCR 109, SCR 110

MESSAGES FROM THE SENATE

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

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, May 28, 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 PASSED THE FOLLOWING MEASURES:

HB 99 Gray SPONSOR: Armbrister
Relating to the funding and operation of certain emergency management and disaster relief programs.
(AMENDED)

HB 172 Nixon, Joe SPONSOR: Cain
Relating to project contract claims against a unit of state government.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 629 Yarbrough SPONSOR: Cain
Relating to recruitment requirements for hiring personnel at the Texas Alcoholic Beverage Commission.
(AMENDED)

HB 1820 Solis SPONSOR: Lucio, Jr.
Relating to the tuition charged to certain foreign students with financial need at certain components of the Texas State Technical College System and at Texas A&M University—Corpus Christi.
(AMENDED)

HB 2133 Jackson SPONSOR: Ratliff
Relating to the creation, powers, and duties of the State Office of Risk Management and to provisions of workers' compensation insurance coverage for state employees.
(AMENDED)

HB 2252 Oliveira SPONSOR: Truan
Relating to certain projects and programs for residents of a colonia.
(AMENDED)

HB 2541 Kuempel SPONSOR: Armbrister
Relating to the regulation of certain scientific breeders.

HB 2697 Gallego SPONSOR: Ellis
 Relating to the salary from the state of a district judge who serves as a local administrative district judge.
 (AMENDED)

HB 2913 Berlanga SPONSOR: Zaffirini
 Relating to the authority of the Health and Human Services Commission to administer and operate the Medicaid managed care program.
 (COMMITTEE SUBSTITUTE/AMENDED)

HB 2948 Turner, Sylvester SPONSOR: Ratliff
 Relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.
 (AMENDED)

HB 3061 Hightower SPONSOR: Armbrister
 Relating to regulation of the import, export, and management of deer; providing penalties.
 (AMENDED)

HB 3234 Hinojosa SPONSOR: Lucio, Jr.
 Relating to the transfer of municipal hospital authority assets for health-related projects.
 (AMENDED)

HCR 86 Hirschi SPONSOR: Haywood
 Requesting the placement of a marker in the Texas State Cemetery in memory of the Honorable Dave Allred.

HCR 269 Goodman SPONSOR: Madla
 Commending the Texas Department of Public Safety for its effective handling of the Republic of Texas incident in Fort Davis.

HCR 281 Goolsby SPONSOR: Carona
 Directing the General Services Commission to request that the Texas Jewelers Association conduct a design contest.

HJR 104 Mowery SPONSOR: Ogden
 Proposing a constitutional amendment relating to eliminating duplicate numbering in and certain obsolete provisions of the Texas Constitution.
 (AMENDED)

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

SB 34 (viva-voce vote)

SB 52 (viva-voce vote)

SB 55 (viva-voce vote)

SB 84 (viva-voce vote)

SB 102 (viva-voce vote)

SB 160 (viva-voce vote)

SB 162	(viva-voce vote)
SB 181	(viva-voce vote)
SB 211	(31 YEAS, 0 NAYS)
SB 258	(31 YEAS, 0 NAYS)
SB 266	(viva-voce vote)
SB 349	(viva-voce vote)
SB 436	(viva-voce vote)
SB 472	(29 YEAS, 0 NAYS)
SB 527	(29 YEAS, 0 NAYS)
SB 633	(viva-voce vote)
SB 645	(31 YEAS, 0 NAYS)
SB 665	(viva-voce vote)
SB 670	(viva-voce vote)
SB 701	(viva-voce vote)
SB 877	(viva-voce vote)
SB 1063	(29 YEAS, 0 NAYS)
SB 1102	(viva-voce vote)
SB 1247	(viva-voce vote)
SB 1276	(viva-voce vote)
SB 1752	(viva-voce vote)
SB 1810	(viva-voce vote)
SB 1937	(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 383

Senate Conferees: Cain - Chair/Harris/Madla/Nelson/Sibley/

SB 384

Senate Conferees: Nelson - Chair/Cain/Harris/Madla/Sibley/

SB 385

Senate Conferees: Sibley - Chair/Cain/Harris/Madla/Nelson/

SB 534

Senate Conferees: Harris - Chair/Cain/Duncan/Ellis/Madla/

SB 700

Senate Conferees: Armbrister - Chair/Nelson/Nixon, Drew/Shapiro/Truan/

SB 841

Senate Conferees: Cain - Chair/Armbrister/Bivins/Harris/Ratliff/

SB 1355

Senate Conferees: Brown - Chair/Ellis/Haywood/Lindsay/Wentworth/

SB 1856

Senate Conferees: Wentworth - Chair/Barrientos/Brown/Lindsay/Lucio/

SB 1907

Senate Conferees: Bivins - Chair/Barrientos/Luna, Gregory/Ratliff/Sibley/

SJR 43

Senate Conferees: Cain - Chair/Armbrister/Bivins/Harris/Ratliff/

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

HB 311

Senate Conferees: Patterson, Jerry - Chair/Armbrister/Brown/Fraser/Whitmire/

HB 768

Senate Conferees: Duncan - Chair/Fraser/Luna, Gregory/Shapleigh/Sibley/

HB 1662

Senate Conferees: Sibley - Chair/Cain/Duncan/Harris/Lucio/

HB 2086

Senate Conferees: Lucio - Chair/Armbrister/Cain/Harris/Madla/

HB 2272

Senate Conferees: Armbrister - Chair/Cain/Ellis/Harris/Luna, Gregory/

HB 3019

Senate Conferees: Brown - Chair/Bivins/Fraser/Lindsay/Nixon, Drew/

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 99 (viva-voce vote)

SB 190 (viva-voce vote)

SJR 33 (31 YEAS, 0 NAYS)

THE SENATE HAS TAKEN THE FOLLOWING OTHER ACTION:

SB 1437

PURSUANT TO **SCR 99**, THE SENATE IS SENDING **SB 1437** TO THE HOUSE FOR FURTHER CONSIDERATION.

Respectfully,

Betty King
Secretary of the Senate

APPENDIX

ENROLLED

May 27 - HB 17, HB 102, HB 126, HB 163, HB 220, HB 273, HB 293, HB 337, HB 425, HB 462, HB 500, HB 640, HB 790, HB 814, HB 826, HB 839, HB 841, HB 881, HB 882, HB 889, HB 891, HB 920, HB 921, HB 981, HB 1001, HB 1048, HB 1062, HB 1176, HB 1192, HB 1229, HB 1235, HB 1238, HB 1239, HB 1287, HB 1310, HB 1314, HB 1317, HB 1384, HB 1427, HB 1456, HB 1463, HB 1473, HB 1483, HB 1489, HB 1572, HB 1603, HB 1606, HB 1653, HB 1665, HB 1667, HB 1668, HB 1672, HB 1688, HB 1703, HB 1706, HB 1710, HB 1723, HB 1751, HB 1756, HB 1780, HB 1790, HB 1898, HB 1899, HB 1912, HB 1937, HB 1960, HB 2005, HB 2018, HB 2067, HB 2071, HB 2078, HB 2082, HB 2084, HB 2096, HB 2099, HB 2115, HB 2157, HB 2169, HB 2180, HB 2198, HB 2202, HB 2203, HB 2213, HB 2221, HB 2222, HB 2227, HB 2257, HB 2273, HB 2309, HB 2318, HB 2345, HB 2397, HB 2424, HB 2438, HB 2462, HB 2469, HB 2502, HB 2506, HB 2512, HB 2555, HB 2564, HB 2573, HB 2584, HB 2587, HB 2606, HB 2622, HB 2633, HB 2634, HB 2671, HB 2731, HB 2733, HB 2745, HB 2747, HB 2749, HB 2750, HB 2779, HB 2795, HB 2807, HB 2856, HB 2868, HB 2873, HB 2875, HB 2887, HB 2899, HB 2919, HB 2982, HB 2997, HB 3027, HB 3037, HB 3048, HB 3063, HB 3065, HB 3074, HB 3075, HB 3076, HB 3077, HB 3078, HB 3092, HB 3104, HB 3105, HB 3106, HB 3158, HB 3161, HB 3176, HB 3224, HB 3266, HB 3330, HB 3345, HB 3368, HB 3436, HB 3437, HB 3440, HB 3441, HB 3478, HB 3513, HB 3517, HB 3530, HB 3538, HB 3550, HB 3556, HB 3557, HB 3566, HB 3569, HB 3570, HB 3574, HB 3576, HB 3586, HB 3588, HB 3589, HB 3591, HB 3592, HB 3597, HB 3603, HB 3605, HB 3609, HCR 2, HCR 14, HCR 23, HCR 26, HCR 67, HCR 80, HCR 82, HCR 85, HCR 116, HCR 118, HCR 143, HCR 149, HCR 151, HCR 156, HCR 168, HCR 202, HCR 209, HCR 211, HCR 212, HCR 228, HCR 230, HCR 232, HCR 235, HCR 236, HCR 242, HCR 256, HCR 265, HCR 272, HCR 294, HCR 300

SENT TO THE GOVERNOR

May 27 - HB 10, HB 21, HB 63, HB 115, HB 119, HB 130, HB 137, HB 155, HB 218, HB 253, HB 349, HB 658, HB 697, HB 710, HB 733, HB 803, HB 812, HB 819, HB 827, HB 846, HB 853, HB 864, HB 998, HB 1043, HB 1070, HB 1168, HB 1173, HB 1336, HB 1356, HB 1418, HB 1467, HB 1477, HB 1611, HB 1637, HB 1692, HB 1734, HB 1755, HB 1789, HB 1811, HB 1812, HB 1836, HB 1880, HB 1886, HB 1909, HB 1928, HB 1961, HB 1975, HB 2033, HB 2061, HB 2062, HB 2063, HB 2069, HB 2129, HB 2146, HB 2261, HB 2283, HB 2380, HB 2482, HB 2488, HB 2493, HB 2561, HB 2626, HB 2681, HB 2841, HB 2845, HB 2874, HB 3012, HB 3016, HB 3052, HB 3054, HB 3086, HB 3087, HB 3135, HB 3137, HB 3189, HB 3197, HB 3203, HB 3244, HB 3269, HB 3278, HB 3279, HB 3383, HB 3391, HB 3428, HB 3563, HB 3567, HB 3572, HB 3587, HB 3607, HCR 21, HCR 254, HCR 274, HCR 287

SIGNED BY THE GOVERNOR

May 27 - **HB 1422, HCR 74, HCR 84, HCR 195, HCR 197, HCR 200, HCR 201, HCR 240, HCR 253, HCR 263**

VETOED BY THE GOVERNOR

May 27 - **HB 1630**