APPENDIX

Sent to Governor

(May 25, 1979)

S.C.R. 20	**S.C.R. 79**
S.C.R. 25	**S.C.R. 80**
S.C.R. 36	**S.C.R. 81**
S.C.R. 41	**S.C.R. 82**
S.C.R. 42	**S.C.R. 83**
S.C.R. 49	**S.C.R. 99**
S.C.R. 58	**S.B. 642**
S.C.R. 73	**S.B. 755**
S.C.R. 75	**S.B. 1243**
S.C.R. 77	**S.B. 1269**
S.C.R. 78	

SEVENTY-EIGHTH DAY

(Saturday, May 26, 1979)

The Senate met at 9:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Absent-excused: Snelson.

A quorum was announced present.

Chaplain Gerald Mann, University Baptist Church, Austin, offered the invocation as follows:

Lord, We thank You for whatever guidance You've given to this session ... and we also thank You for Your sense of humor. Amen.

On motion of Senator Moore and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Snelson was granted leave of absence for today on account of important business on motion of Senator Andujar.

MESSAGE FROM THE HOUSE

House Chamber
May 26, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

H.C.R. 224 Commending Robert E. Johnson, Jr, on the occasion of his admission to the State Bar

HCR 183, Recommending investment of public funds to the greatest extent by certain state agencies.

S.J.R. 36 Proposing a constitutional amendment to change the name of the Courts of Civil Appeals and the names and qualifications of the justices of the Supreme Court, and to prescribe the jurisdiction and authority of the appellate courts. (With amendments)

S.B. 117 Relating to the rights of a living fetus removed from the body of a woman and to the protection of a living fetus born as a result of an abortion; amending Title 2 of the Family Code by adding Sections 12.05, 15.022, and 17.011, and by adding Subdivision (9) to Section 11.01. (With amendments)

S.B. 334 Relating to the method of measuring shrimp trawls.

S.B. 378 Amending the Insurance Code, as amended, by adding a Chapter 23 thereto; providing for the regulation of Insurance Premium Finance Companies by the State Board of Insurance; repealing Articles 5069-12.01 through 5069-12.20, Vernon's Annotated Civil Statutes; and declaring an emergency. (With amendments)

S.B. 386 Relating to state reimbursement of school districts for the cost of providing teacher sick leave.

S.B. 428 Relating to the appointment, duties, and staff of presiding judges of the administrative judicial districts, and the duties of the chief justice of the supreme court. (With amendments)

S.B. 540 Relating to photographing children in connection with the investigation of criminal offenses; amending Subsection (b) and Subsection (g) and adding Subsection (h) to Section 51.15, Family Code; and declaring an emergency.

S.B. 541 Relating to the grounds for the detention of a child taken into custody under Title 3, Family Code; amending Subsection (b) of Section 53.02 and Subsection (e) of Section 54.01, Family Code; and declaring an emergency.

S.B. 1176 Relating to the gulfward boundaries of counties, cities, towns or villages located on the coastline of the Gulf of Mexico.

S.B. 1301 Making an appropriation for repair of the Texas State Railroad.

S.B. 479 Relating to authorization of county and municipal law enforcement officers to assist other counties and municipalities in certain circumstances (With amendment)

S.B. 1234 Relating to noxious weed control districts

HB 499, A bill to be entitled An Act relating to breakfast programs for public school students from low-income families.

HB 947, A bill to be entitled An Act relating to a housing rehabilitation program for blighted residential areas.

HB 1105, A bill to be entitled An Act relating to the state's use of historically, architecturally, or culturally significant structures.

HB 1111, A bill to be entitled An Act relating to jurisdiction of the Commission on Jail Standards.

HB 1148, A bill to be entitled An Act relating to school district participation in the federal breakfast program.

HB 1407, A bill to be entitled An Act relating to the allocation and use of revenue from the state hotel occupancy tax.

HB 1741, A bill to be entitled An Act relating to the definition of obscene and to the elements of and penalty for the offense of obscenity.

HB 2016, A bill to be entitled An Act amending Section 2a, Article 1066b, Vernon's Texas Civil Statutes, as amended, to validate ordinances, resolutions and acts, taxes, collections, and liens of any taxing agency operating under authority granted by Chapter 351, Acts of the 49th Legislature, Regular Session, 1945, as amended, adopted, done, or accruing prior to the effective date of this Act; providing for immediate effect; and declaring an emergency.

HB 2018, A bill to be entitled An Act relating to the definition of the term "religious worship" as utilized in Article 7150, Subdivision 1, Revised Civil Statutes of Texas, 1925, as amended, which exempts "actual places of religious worship" from taxation; and declaring an emergency.

HB 2019, A bill to be entitled An Act relating to the definition of the term "actual places of religious worship" as utilized in Article 7150, Subdivision 1, Revised Civil Statutes of Texas, 1925, as amended, which exempts "actual places of religious worship" from taxation; and declaring an emergency.

HB 2117, A bill to be entitled An Act relating to operation of an unsafely loaded vehicle; providing a penalty.

HB 2121, A bill to be entitled An Act relating to establishment of a program to identify infants at high risk of hearing loss.

HB 2143, A bill to be entitled An Act relating to public hearing procedures pursuant to municipal annexation; plans of service; disannexation procedures; and the configuration of certain annexations.

RESPECTFULLY,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Williams, Vice-Chairman, submitted the following report for the Committee on Natural Resources.

H.B. 2234
H.B. 2245
H.B. 1540
H.B. 1277
H.B. 2261
C.S.H.B. 480

Senator Moore submitted the following report for the Committee on State Affairs:

H.B. 1898
H.B. 2026
S.R. 599
H.B. 1577
H.J.R. 108
H.B. 1474 (Amended)
H.B. 659 (Amended)
H.B. 852
H.B. 818
H.B. 1625
H.B. 1685
H.B. 628 (Amended)
H.B. 869
H.B. 224
H.B. 1924
H.B. 1421
H.C.R. 106
H.C.R. 107
H.B. 1558
C.S.H.B. 2229 (Read first time)

Senator Brooks submitted the following report for the Committee on Human Resources:

H.C.R. 98
H.C.R. 103
H.C.R. 102
H.B. 1925
C.S.H.B. 1052 (Read first time)

Senator Parker, Vice-Chairman, submitted the following report for the Committee on Intergovernmental Relations:

H.B. 1966
H.B. 1708
S.R. 668
H.B. 2273

H.B. 2255
S.C.R. 94
H.B. 1325 (Amended)
H.B. 1688
H.B. 1954
H.B. 2275
H.B. 1552 (Amended)

Senator Jones of Harris submitted the following report for the Committee on Administration:

H.C.R. 82
H.C.R. 180
H.C.R. 209
C.S.S.R. 663 (Read first time)
H.B. 850
H.B. 2269
S.R. 667

BILLS ORDERED NOT PRINTED

On motion of Senator Parker and by unanimous consent, the following bills were ordered not printed:

H.B. 1954
H.B. 1688
H.B. 1325
H.B. 2255
H.B. 2273
H.B. 2275

BILLS ORDERED NOT PRINTED

On motion of Senator Moore and by unanimous consent, the following bills were ordered not printed:

C.S.H.B. 2229
H.B. 1898
H.B. 2026
S.R. 599
H.B. 1577
H.B. 1474
H.B. 1625
H.B. 1685
H.B. 628
H.B. 1924
H.C.R. 106
H.C.R. 107

BILLS ORDERED NOT PRINTED

On motion of Senator Schwartz and by unanimous consent, the following bills were ordered not printed:

H.B. 2234
H.B. 2245
H.B. 1540
H.B. 1277
H.B. 2261
C.S.H.B. 480

BILLS ORDERED NOT PRINTED

On motion of Senator Jones of Harris and by unanimous consent, the following bills were ordered not printed:

C.S.S.R. 663
S.R. 667
H.B. 2269
H.B. 850
H.C.R. 209
H.C.R. 180
H.C.R. 82

BILLS ORDERED NOT PRINTED

On motion of Senator Brooks and by unanimous consent, the following bills were ordered not printed:

H.C.R. 98
H.C.R. 103
H.C.R. 102
C.S.H.B. 1052

SENATE RESOLUTIONS ON FIRST READING

On motion of Senator Brooks and by unanimous consent, the following resolutions were introduced, read first time and referred to the Committee indicated:

S.R. 692 by Brooks Human Resources
Directing the Senate Committee on Human Resources to study several areas in furtherance of recommendations made by the Joint Committee on Long-Term Care Alternatives.

S.R. 693 by Brooks Human Resources
Directing the Senate Committee on Human Resources to conduct a comprehensive study of the handicapped in Texas.

S.C.R. 102 by Parker Administration
Creating a special interim committee to study the feasibility of establishing a river authority for the entire Neches River.

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read the first time and referred to the Committee indicated:

H.C.R. 183, To Committee on Economic Development.

H.B. 499, To Committee on Education.
H.B. 947, To Committee on Human Resources.
H.B. 1105, To Committee on Economic Development.
H.B. 1111, To Committee on Intergovernmental Relations.
H.B. 1148, To Committee on Education.
H.B. 1407, To Committee on Finance.
H.B. 1741, To Committee on Jurisprudence.
H.B. 2016, To Committee on Intergovernmental Relations.
H.B. 2018, To Committee on Finance.
H.B. 2019, To Committee on Finance.
H.B. 2117, To Committee on Economic Development.
H.B. 2121, To Committee on Human Resources.
H.B. 2143, To Committee on Intergovernmental Relations.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1060

Senator Jones of Taylor submitted the following Conference Committee Report:

Austin, Texas
May 25, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill No. 1060 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.

JONES OF TAYLOR
SNELSON
McKNIGHT
PARKER
MEIER
On the part of the Senate

DAVIS
HILL
SCHLUETER
VON DOHLEN
On the part of the House

The Conference Committee Report was read and filed with the Secretary of the Senate.

SENATE BILL 1268 WITH HOUSE AMENDMENT

Senator Truan called **S.B. 1268** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Gilley

Amend **S.B. 1268** by striking on page 2, line 12 "[~~two-thirds (2/3)~~] and substituting therein "two-thirds (2/3)."

The amendment was read.

Senator Truan moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 1268** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Truan, Brooks, Parker, Doggett and Mauzy.

SENATE BILL 1264 WITH HOUSE AMENDMENT

Senator Truan called **S.B. 1264** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Bird

Amend Senate Bill 1264 by deleting the following language that begins on page 1, line 15, "not less than $8,000 [~~$3,000~~] but".

The amendment was read.

Senator Truan moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 929 WITH HOUSE AMENDMENTS

Senator Truan called **S.B. 929** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Caraway

Amend **S.B. 929** by inserting the following language as a new Section (4), and renumbering Sec (4) Sec (5), and changing the caption accordingly.

Sec. (4). Boundaries. Home rule cities covered by this Act which have the statutory authority to discontinue or disannex any amount of territory may discontinue or disannex any territory contiguous to its boundaries, whether the

territory is inhabited or uninhabited, taxable or nontaxable, improved or unimproved. Any action taken before the effective date of this Act to initiate the discontinuance or disannexation of any such territory is validated as of the date on which the action occurred, notwithstanding any other provision of the law.
and, in the caption, change the period after "charter" to a semi-colon then insert the following:

"confirming power to change boundaries; containing other provisions; and declaring an emergency."

Amendment No. 2 - Harrison

Amend **S.B. 929** by striking "Section 4" and all of the language contained therein and renumbering Section (5) as Section (4).

The amendments were read.

Senator Truan moved to concur in the House amendments.

The motion prevailed.

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

SENATE BILL 281 WITH HOUSE AMENDMENTS

Senator Doggett called **S.B. 281** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Lalor

Substitute the following for S.B. No. 281:

A BILL TO BE ENTITLED

AN ACT

relating to regulation of lawyers by the Supreme Court and the Board of Law Examiners.

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

SECTION 1. Articles 304, 304a, 305, 306, 308, and 310, Revised Civil Statutes of Texas, 1925, as amended, are amended to read as follows:

Art. 304. BOARD OF EXAMINERS. (a) The Board of Law Examiners shall consist of nine lawyers having the qualifications required of members of the Supreme Court. Members [~~They~~] shall be biennially appointed by the Supreme Court and shall each hold office for two years and be subject to removal by the Supreme Court for incompetency or inattention to duty. Any appointment made shall be without regard to race, creed, sex, religion, or national origin.

(b) If a member of the Board has a financial interest, other than a remote financial interest, in a decision pending before the Board, the member is disqualified from participating in the decision.

(c) A person holding office as a member of the Board of Law Examiners on September 1, 1979, continues to hold office for the term for which the member was originally appointed. The terms of office of all succeeding members expire September 30 of odd-numbered years.

(d) No Board member or employee of the Board shall be an employee or paid consultant of a trade association in the field of Board interest.

(e) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to the Board or serve as a member of the Board.

(f) The Board is subject to the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes), the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). Deliberations on and records relating to the moral character and fitness of applicants shall be exempted from the open meetings law and the open record law. Such records, however, shall be disclosed to individual applicants upon written request.

Art. 304a. Application of Sunset Act. The Board of Law Examiners is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the board is abolished effective September 1, 1991 [~~1979~~].

Art. 305. DUTIES OF BOARD. (a) Such Board, acting under instructions of the Supreme Court as hereinafter provided, shall pass upon the eligibility of all candidates for examination for license to practice law within this State, and examine such of these as may show themselves eligible therefor, as to their qualifications to practice law. Such Board shall not recommend any person for license to practice law unless such person shall show to the Board, in the manner to be prescribed by the Supreme Court, that he is of such moral character and of such capacity and attainment that it would be proper for him to be licensed.

(b) If requested in writing by any applicant for a license who takes and fails an examination administered by the Board, the Board shall furnish to the applicant an analysis of the applicant's performance on the examination.

Art. 306. AUTHORITY OF SUPREME COURT. (a) The Supreme Court is hereby authorized to make such rules as in its judgment may be proper to govern eligibility for such examination and the manner of conducting the same, covering, among other points, proper guarantee to insure:

1. Good moral character on the part of each candidate for license;

2. Adequate pre-legal study and attainment;

3. Adequate study of the law for at least two years, covering the course of study prescribed by the Supreme Court, or the equivalent of such course;

4. The legal topics to be covered by such study and by the examination given;

5. The times [~~time~~] and places [~~place~~] for holding the examination, the manner of conducting same, and the grades to be made by the candidates to entitle them to be licensed;[~~.~~

[~~Whenever as many as five applicants shall request the Board to conduct an examination in any particular town or city convenient to their place of residence, the examination of such applicants shall be conducted at such town or city at some suitable time, to be determined by the Board;~~]

6. Any other such matters consistent with this Act as shall be desirable in order to make the issuance of a license to practice law evidence of good character, and fair capacity and real attainment and proficiency in the knowledge of law.

The completion of prescribed study in an approved law school as herein defined shall satisfy the law study requirements for taking the aforesaid examination. An approved law school is hereby defined as one which is

approved by the Supreme Court as offering the course of study prescribed by the Supreme Court for the period of time designated by such Court, and as maintaining the additional standards prescribed by the Court. No license to practice law in this state shall be issued by any court or authority except by the Supreme Court of this state, under the provisions of this title. The power granted to the Supreme Court by this Act shall not be delegated.

(b) The Supreme Court shall adopt rules necessary to administer its functions and to govern the administration of the Board's functions relating to the licensing of lawyers.

(c) If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the board receives the committee's statement.

Art. 308. FOREIGN ATTORNEYS. (a) The Board shall recommend to the Supreme Court that it license and the Supreme Court shall issue a license to an applicant if the applicant has a license to practice law issued by another state or territory or by the District of Columbia, and the licensing standards of the other state or territory or the District of Columbia are equivalent to or exceed those of this state and that state or territory allows reciprocity with the state of Texas.

(b) If the licensing standards of the other state or territory or the District of Columbia are not equivalent to or do not exceed those of this state, the Board may require that the applicant take the examination for a license to practice law. [~~The Supreme Court shall make such rules and regulations as to admitting attorneys from other jurisdictions to practice law in this State as it shall deem proper and just.~~] All such immigrant attorneys shall be required to furnish satisfactory proof as the good moral character and fitness.

Art. 310. FEES. (a) The fee for any examination given by the Board shall be fixed by the Supreme Court, not to exceed $75 for each candidate, which shall be paid to the clerk of said court at the time the application for examination is made. The money thus obtained shall be used to pay all legitimate expenses incurred in holding the examination; and as compensation to the members of the Board, under such regulations as shall be determined by the Supreme Court. Provided that, the compensation, not including reasonable and necessary actual expenses paid to any member of the Board, shall not exceed Fifteen Thousand Dollars ($15,000.00) per annum.

(b) The fee for an investigation of the moral character and fitness of each candidate is set by the Supreme Court, not to exceed $75. The candidate must pay the investigation fee to the Board at the time it is requested by the Board. If the fees collected from individuals for the investigation of moral character and fitness are in excess of the cost to the Board of conducting the investigation, the fees shall be proportionately decreased to insure that excessive fees are not collected by the Board.

(c) Fees received by the clerk or the Board shall be deposited in the State Treasury to the credit of a special fund to be known as the Law Examiners Fund and may be used only to administer the functions of the Supreme Court or the Board relating to the licensing of lawyers, and such funds are hereby appropriated for the biennium ending August 31, 1981 unless a different appropriation pattern is adopted by the 66th Legislature.

(d) The financial transactions of the board shall be audited annually by the State Auditor.

SECTION 2. Chapter 2, Acts of the 43rd Legislature, 4th Called Session, 1934 (Article 305a, Vernon's Texas Civil Statutes), is repealed and a new Article 305a is added to Title 14, Revised Civil Statutes of Texas, 1925, as amended, to read as follows:

Art. 305a. MORAL CHARACTER AND FITNESS OF APPLICANTS. (a) The Board may conduct an investigation of the moral character and fitness of an applicant for a license.

(b) The Board may contract with public or private entities for investigative services relating to the moral character and fitness of applicants for licenses.

(c) The Board may not recommend the denial of a license and the Supreme Court may not deny a license to an applicant on the ground of a deficiency in the applicant's moral character or fitness unless:

(1) the Board finds a clear and rational connection between a character trait of the applicant and the likelihood that the applicant would injure a client or obstruct the administration of justice if the applicant is licensed to practice law; or

(2) the Board finds a clear and rational connection between the applicant's present mental or emotional condition and the likelihood that the applicant will not discharge properly the applicant's responsibilities to a client, a court, or the legal profession if the applicant is licensed to practice law.

(d) Each person intending to apply for admission to the bar of this state shall file with the secretary of the Board a Declaration of Intention to Study Law. The declaration shall be filed on a form provided by the Board. Forms provided by the Board for the filing of a Declaration of Intention to Study Law shall clearly identify those conditions of character and fitness provided in Subsection (e) of this article that may be investigated by the Board and that may result in the denial of the declarant's application to sit for the bar examination. Within 180 days after the filing of the declaration the Board shall furnish to the declarant an analysis of the character investigation which specifies the results of that investigation in detail. The Board shall limit its investigation of the moral character and fitness of an applicant to those areas clearly related to the applicant's moral character and present fitness to practice law.

(e) All candidates to take the bar examination must file an application to take the examination with the secretary of the Board. Applications shall be filed not less than 180 days prior to the first day of the examination in which the applicant wishes to participate. The requirements of the application shall be limited to an affidavit, duly verified, setting forth the following statements that since the filing of his or her original declaration;

(1) the applicant has not been adjudged guilty of any violation of law, excluding minor traffic violations, records of arrests or convictions expunged by court order, pardoned, offenses, and records of arrests for and convictions of Class C misdemeanors;

(2) the applicant has not been committed or adjudicated as being mentally ill;

(3) the applicant has not been charged with fraud in any legal proceeding; and

(4) the applicant has not been involved in civil litigation or bankruptcy proceedings that reasonably bear on the applicant's fitness to practice law.

(f) Based on the investigation of the preceding conditions of character and fitness performed after the filing of a Declaration of Intent to Study Law and the filing of an affidavit attesting to the preceding statements on application to take the bar exam, the Board shall assess the applicant's fitness and moral character. If the applicant attests to all of the preceding statements, the Board shall make its determination on the basis of the statements and prior

investigation and shall make no further inquiry into the moral character of the applicant. If the applicant is unable to attest to all of the preceding statements, he or she shall list the reasons for his or her inability to attest, after which the Board may, in its discretion, refer the application and results of its prior investigation to the District Committee on Admissions in the city where the applicant filed his declaration. The committee may require that the applicant submit to a personal interview or conduct another investigation within the confines of this article as it considers proper. On completion of its investigation, the District Committee on Admissions shall report its opinion of the applicant's moral character and fitness to the Board and accompany the report with the application, supporting documents, and the results of the investigation. The Board shall then determine if the applicant possesses good moral character and fitness. Within 150 days after the filing of the application the Board shall furnish to the applicant an analysis of the character investigation that specifies the results of that investigation in detail.

Art. 305c. DISTRICT COMMITTEE ON ADMISSIONS. (a) For the purpose of aiding the Board in determining the good moral character and the fitness of each declarant to become a member of the profession, there is created a District Committee on Admissions in each of the state bar districts to investigate qualifications for admission to the bar.

(b) A district committee is composed of at least 15 members appointed by the Supreme Court with the advice of the resident of the State Bar.

(c) Three members of a district committee must be at the time of their appointments representatives of the general public who do not have, other than as consumers, financial interests in the practice of law, three members must be at the time of their appointments lawyers who are licensed to practice law in the state, and the remaining members must be similarly qualified representatives of the general public or lawyers. In a bar district in which a law school approved by the Supreme Court is located, three members of the committee must be at the time of their appointments law students who are enrolled in a law school in the bar district that is approved by the Supreme Court.

(d) Except for the initial appointees, members of a district committee hold office for two-year terms expiring on January 31 of each odd-numbered year. The initial appointees serve for terms expiring on January 31, 1983.

(e) The Supreme Court shall appoint the chairman of each district committee.

(f) Five members of a district committee constitute a quorum.

(g) A district committee shall aid the Board in investigating the moral character or fitness of an applicant for a license.

(h) The Supreme Court shall adopt rules governing the administration of each district committee's functions, including rules requiring that applicants for licenses be treated uniformly and impartially by the district committees.

SECTION 3. Article 311, Revised Civil Statutes of Texas, 1925, is repealed.

SECTION 4. This Act takes effect on September 1, 1979.

SECTION 5. 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.

Amendment No. 2 - Washington

Amend C.S.S.B. # 281 by striking subsection (c) Page 6 lines 12 thru 18 and insert the following:

(c) Fees received by the clerk or the Board shall be deposited in a fund established by the Supreme Court and may be used only to administer the functions of the Supreme Court or the Board relating to the licensing of lawyers as directed by the Court.

Amendment No. 3 - Chavez

Amend **C.S.S.B. 281** by striking the first two lines on page 5 and place a period following the word "effect" on line 27, page 4.

The amendments were read.

Senator Doggett moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 877 WITH HOUSE AMENDMENT

Senator Santiesteban called **S.B. 877** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Nabers

Substitute the following for **S.B. 877**:

A BILL TO BE ENTITLED

AN ACT

relating to the use of tetrahydrocannabinols and derivatives for therapeuic and research purposes and certain controlled substances and applications.

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

SECTION 1. The Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes), is amended by adding Subchapter 7 to read as follows:

"SUBCHAPTER 7. MEDICAL AND RESEARCH PROGRAM

"Section 7.01. RESEARCH PROGRAM. The Texas Board of Health shall establish a controlled substance therapeutic research program for the supervised use of tetrahydrocannabinols for medical and research purposes, to be conducted in accordance with this Act.

"Section 7.02 RESEARCH PROGRAM REVIEW BOARD. (a) The Research Program Review Board is created. The review board members are appointed by the Texas Board of Health and serve at the board's pleasure.

"(b) The review board shall be composed of:

"(1) a licensed physician who is certified by the American Board of Ophthalmology;

"(2) a licensed physician who is certified by the American Board of Internal Medicine and also certified in the subspecialty of medical oncology;

"(3) a licensed physician who is certified by the American Board of Psychiatry;

"(4) a licensed physician who is certified by the American Board of Surgery;

"(5) a licensed physician who is certified by the American Board of Radiology; and

"(6) a licensed attorney who has experience in law pertaining to the practice of medicine.

"(c) Members serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing official duties.

"Section 7.03. REVIEW BOARD POWERS AND DUTIES. (a) The review board shall review research proposals submitted, medical case histories of persons recommended for participation in a research program, and determine which research programs and persons are most suitable for the therapy and research purposes of the program. The review board shall approve the research programs, certify program participants, and conduct periodic reviews of the research and participants.

"(b) The review board, after approval of the Board of Health, may seek authorization to expand the research program to include diseases not covered by this subchapter.

"(c) The review board shall maintain a record of all persons in charge of approved research programs and of all persons who participate in the program as researchers or as patients.

"Section 7.04. TERMINATION OF TETRAHYDROCANNABINOLS DISTRIBUTION TO PROGRAM. The Texas Board of Health may terminate the distribution of tetrahydrocannabinols and its derivatives to a research program as it determines necessary.

"Section 7.05. PATIENT PARTICIPATION. (a) A person may not be considered for participation as a recipient of tetrahydrocannabinols and its derivatives through a research program unless the person is recommended to a person in charge of an approved research program and the review board by a physician licensed by the Board of Medical Examiners attending the person.

"(b) A physician may not recommend a person for the research program unless the person:

"(1) has glaucoma or cancer;

"(2) is not responding to conventional treatment for glaucoma or cancer or is experiencing severe side effects from treatment; and

"(3) has symptoms or side effects from treatment that may be alleviated by medical use of tetrahydrocannabinols or its derivatives.

"Section 7.06. ACQUISITION OF CONTROLLED SUBSTANCE FOR PROGRAM. The Texas Board of Health shall acquire the tetrahydrocannabinols and its derivatives for use in the research program by contracting with the National Institute on Drug Abuse to receive tetrahydrocannabinols and its derivatives that is safe for human consumption according to the regulations promulgated by the institute, the Food and Drug Administration, and the Drug Enforcement Administration.

"Section 7.07. DISTRIBUTION OF CONTROLLED SUBSTANCE. The Texas Board of Health shall supervise the distribution of the tetrahydrocannabinols and its derivatives to program participants. The tetrahydrocannabinols and derivatives thereof may be distributed only by the person in charge of the research program, under rules promulgated by the Texas Board of Health in such manner as to prevent unauthorized diversion of the substances and in compliance with any and all requirements of the Drug Enforcement Administration, to physicians caring for program participant patients. The physician is responsible for dispensing the substances to patients.

"Section 7.08. RULES. The Texas Board of Health shall adopt rules necessary for implementing the research program.

"Section 7.09. REPORT. The commissioner of health shall publish a report before January 2 of each year in which the Texas Legislature meets in regular session on the medical effectiveness of the use of tetrahydrocannabinols and its derivatives and any other medical findings of the research program.

"Section 7.10. AUTHORIZED POSSESSION OR DELIVERY NOT VIOLATION. The possession or delivery of tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols, or the possession of an instrument that has on it a quantity of any of those substances is not a violation of Section 4.03, 4.04, 4.05, or 4.07 of this Act if the possession or delivery is for use in the program established under this subchapter."

SECTION 2. Subsection (e), Section 3.01, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended to read as follows:

"(e) The following persons need not register and may lawfully possess controlled substances under this Act:

"(1) an agent or employee of any registered manufacturer, distributor, analyzer, or dispenser of any controlled substance if he is acting in the usual course of his business or employment;

"(2) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment; [~~or~~]

"(3) an ultimate user, as that term is defined herein, or a person ,in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance; or

"(4) an official of the Texas Department of Health, a medical school researcher, or a research program participant possessing tetrahydrocannabinols and its derivatives as authorized under Subchapter 7 of this Act."

SECTION 3. Section 3.03, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), is amended by adding Subsection (f) to read as follows:

"(f) This section does not apply to the use of tetrahydrocannabinols in the research program established under Subchapter 7 of this Act."

SECTION 4. Any person, firm, or corporation which has filed a new drug application under Article 4476-5, Vernon's Texas Civil Statutes, as amended, on or after December 5, 1977, with respect to which the Commissioner of Health did not enter a formal order of denial within 180 days from the date of application as provided by Article 4476-5, Vernon's Texas Civil Statutes, as amended, shall be deemed approved and granted and the Commissioner of Health shall enter an order to such effect. This section shall take effect upon passage of this Act.

SECTION 5. EFFECTIVE DATE. With the exception of Section 4, this Act takes effect January 1, 1980.

SECTION 6. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative 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.

The amendment was read.

Senator Santiesteban moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 1079 WITH HOUSE AMENDMENTS

Senator Clower called **S.B. 1079** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1 - Smith

Senate Bill No. 1079 shall be amended as follows:

Section 2. Definitions: Subsection (3) shall read as follows:

(3) "Creating entities" means the principal city and/or county of the principal city or any contiguous city as provided in Section 24. Sections 24 and 25 shall become Sections 25 and 26; and a new Section 24 shall be added to read in its entirety as follows:

"Section 24. Subregional Transportation Authorities in Contiguous Cities.

(a) Nothing contained in this Act shall require any City with boundaries contiguous to a principal city and with boundaries extending into two or more adjacent counties, two of which counties include a principal city, to be a part of or participate in the Regional Transportation Authority provided herein. Such cities shall be called "contiguous cities".

(b) Nothing contained in this Act shall prohibit any such contiguous city from establishing a Subregional Transportation Authority.

(c)(1) Within 60 days after initiation of the process provided in Section 3 of this Act by a principal city or a county of the principal city, or within 60 days after a confirmation election, or any election to dissolve the authority, in which a majority of the votes cast in such contiguous city either fail to confirm the creation of the authority or approve the dissolving of the authority, any such contiguous city may elect by resolution of its governing body not to participate in the Regional Transportation Authority established by a principal city or county of a principal city.

(2) In the event such contiguous city shall elect not to participate in the Regional Transportation Authority provided in this Act, its boundaries shall be excluded from the Regional Transportation Authority proposed or created by the principal city or county of the principal city and shall not be included in the initiating process of said principal city or county of the said principal city as provided in Section 4 of this Act and the confirmation procedure of Section 9 of this Act.

(d) Any such contiguous city may create a Subregional Transportation Authority by one of the following methods:

(1) The governing body of a contiguous city may initiate the process to create a Subregional Transportation Authority on its own motion.

(2) If a petition requesting creation of a Subregional Transportation Authority signed by at least 5% of the registered voters of the contiguous city is presented, the governing body of the contiguous city shall initiate the process for creating the Subregional Transportation Authority.

(e) The Subregional Transportation Authorities created in any two or more contiguous cities may establish a joint Subregional Transportation Authority by contract. A Subregional Transportation Authority or joint Subregional Transportation Authorities may enter into contracts with a Regional Transportation Authority.

(f) Except as it may conflict with the intent of this Section 24, the initiating procedure for a Subregional Transportation Authority shall be the same as that provided in Section 4 of this Act. Where the word "principal city" is used therein, it shall mean contiguous city and where the word "authority" is used therein, it shall mean the Subregional Transportation Authority.

(g) Subregional Transportation Authority Executive Committee.

(1) The management, control, and operation of a Subregional Transportation Authority and its property shall be vested in an executive committee comprised of 5 members selected by the governing body of the contiguous city.

(2) The members of the executive committee shall elect from among their number a chairman, vice-chairman, and a secretary. The executive committee may appoint such assistant secretaries, either members or non-members of the executive committee, as it deems necessary. The secretary and assistant secretary shall, in addition to keeping the permanent records of all proceedings and transactions of the Subregional Transportation Authority, perform such other duties as may be assigned to them by the executive committee. No member of the executive committee or officer of the Subregional Transportation Authority shall be pecuniarily interested or benefited, directly or indirectly, in any contract or agreement to which the authority is a party.

(3) The executive committee shall hold at least one regular meeting during each month for the purpose of transacting the business of the Subregional Transportation Authority. Upon written notice, the chairman may call special meetings as may be necessary. The executive committee when organized, shall by resolution, set the time, place, and day of the regular meetings, and shall adopt rules, regulations, and bylaws as it may deem necessary for the conduct of its official meetings. Four members shall constitute a quorum of the executive committee for the purpose of conducting its business and exercising its powers, and action may be taken by the Subregional Transportation Authority upon a vote of a majority of the executive committee members present unless the bylaws require a larger number for a particular action.

(4) The executive committee shall receive recommendations for the annual budget from the governing body of the contiguous city and shall obtain approval of the final annual budget from said contiguous city.

(h) Confirmation election.

(1) After the interim executive committee has organized, developed a service plan, and determined the rate of tax that it desires to levy, it shall call a confirmation election in accordance with the provisions of this section.

(2) When the executive committee orders a confirmation election, it shall submit to the qualified voters within the Subregional Transportation Authority the following proposition:

"Shall the creation of (name of authority) be confirmed and shall the levy of the proposed tax be authorized?

(3) Except as otherwise provided in this Act, notice of the election shall be given in accordance with the general election laws. The notice of the election shall include a description of the nature and rate of the proposed tax. A copy of the notice of the election and any other election held pursuant to this Act shall be furnished to the State Highways and Public Transportation Commission.

(4) Immediately after the election, the presiding judge of each election precinct within the contiguous city shall return the results to the executive committee, which shall canvass the returns and declare the results of the election and adopt an order declaring the creation of the Subregional Transportation Authority.

(5) If the votes cast are such that the Subregional Transportation Authority ceases to exist in its entirety, the executive committee shall enter an order so declaring and file a certified copy of the order with the State Highways and Public Transportation Commission, and the authority shall be dissolved.

(6) The cost of the confirmation election shall be paid by the creating entity.

(7) If the election results in the confirmation of a Subregional Transportation Authority, the authority shall, within the limits confirmed, be authorized to function in accordance with the terms of this Act, and the executive committee may levy and collect the proposed tax within those limits.

(8) If the continued existence of a Subregional Transportation Authority is not confirmed by election within three years after the effective date of the resolution(s) or order(s) initiating the process to create the Subregional Transportation Authority, the Subregional Transportation Authority ceases to exist on the expiration of the three years.

(9) For a period of one year following a confirmation election, the governing body of any contiguous city may on its own volition or shall, upon receipt of a petition containing signatures of at least 20 percent of the registered voters within the contiguous city call an election and offer the following proposition: "Shall the (name of authority) be dissolved in city". Should the majority of voters voting in the election vote to dissolve the Subregional Transportation Authority within the contiguous city, the Subregional Transportation Authority shall cease to exist within the City as of 12:00 midnight on the date of the canvass of the election and all financial obligations of that unit of election will cease to accrue at that time. The financial obligation shall be computed on a per capita basis for the entire year and taxes will continue to be collected until such time as all financial obligations of the contiguous city are paid, at which time the taxes collected to support the Subregional Transportation Authority shall cease within the contiguous city.

(i) The following Sections of this Act shall not apply to Subregional Transportation Authorities:

Sections 5, 6, 7, 8, 9, 11 and 12.

(j) Sections 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 shall be applicable to the Subregional Transportation Authorities. Whenever the term "authority" is used, it shall mean Subregional Transportation Authority.

(k) Addition of Territory

(1) If a city or town which is a part of an authority lawfully annexes additional territory which is not a part of the Subregional Transportation Authority, the annexed territory becomes a part of the Subregional Transportation Authority.

(2) At the time territory is added to a Subregional Transportation Authority under the provisions of this section, any tax which the board of the Subregional Transportation Authority has already been authorized to levy applies to the added territory.

Amendment No. 2 - Hollowell

Amend SB 1079 on Page 6, Line 10 by adding after the word "counties" and before the word "that" the following:

"having more than 52,000 population"

and Page 52, Line 26 after the word "provision," add the following:

"it is provided, however, that the provisions of Subsection (b) of Section 4 of this Act are not severable in whole or in part."

Amendment No. 3 - Maloney

Amend S.B. No. 1079, Page 26, line 11, by adding a new subsection (t) as follows:

"(t) Any and all law enforcement police powers granted pursuant to this Section shall be subordinate to the law enforcement police power of an incorporated city wherein the power is attempted to be exercised."

Amendment No. 4 - Maloney

Amend S.B. No. 1079, Page 21, line 24, by deleting the word "conclusive".

Amendment No. 5 - Maloney

Amend S.B. No. 1079, page 21, line 9, by inserting between the word "would" and the word "unduly", the following:

"unduly impair the then existing neighborhood character of property surrounding or adjacent to the property sought to be condemned or".

Amendment No. 6 - Maloney

Amend S.B. No. 1079, on Page 2, line 13, by deleting subsection (4) in its entirety and renumbering the subsequent subsections accordingly,
and,
on Page 10, lines 4 and 5 by deleting the sentence:

"In determining representation, an enclave city will be considered a part of the surrounding city."
and,
on Page 10, line 18, by deleting the phrase:

"except enclave cities,"

Amendment No. 7 - Keller

Amend Senate Bill 1079, page 9, line 26 by adding the following:

"The member shall represent only the communities and unincorporated areas in the county not directly represented on the board, and shall reside in such an area."

Amendment No. 8 - Keller

Amend Senate Bill 1079, page 10, line 4 by adding between the word "subregion" and "In" the following:

"Any combination of cities aggregating a total population of 60,000 shall be entitled to one member on the interim subregional board. Following the confirmation election, any combination of cities who have voted confirmation of the authority, may aggregate a population of at least 60,000 for the purpose of appointing one member to the initial subregional board."

Amendment No. 9 - Keller

Amend Senate Bill 1079 page 16, line 13 and 14, by adding the words "and proposed tax" between the words "authority" and "because."

Amendment No. 10 - Blanton

Amend S.B. No. 1079, Page 17, line 9, by adding the following sentence after the period:

"In no event shall the tax authorized under this Act be levied in any unit of election which has failed to confirm the authority."

Amendment No. 11 - Blanton

Amend SB 1079 by adding a new Section 23A as follows:

"Sec. 23A - Nothing contained in this Act shall preclude an incorporated City from providing general transportation servies or public transportation services."

Amendment No. 12 - Hall

Amend S.B. No. 1079, 3rd Reading, by adding on Page 47, Line 26, before the word "with" the following language:
"and a map of the authority clearly showing the boundaries of the subregions"

The amendments were read.

Senator Clower moved to concur in the House amendments.

The motion prevailed.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and filed with the Secretary of the Senate:

Austin, Texas
May 26, 1979

TO THE SENATE, SIXTY-SIXTH LEGISLATURE; REGULAR SESSION:

Pursuant to the provisions of Article III, Section 5, of the Constitution of Texas, I herewith submit as an emergency matter the following:

1) Senate Bill 1317 by Moore which relates to the conducting and financing of ceremonies and events for the inauguration of the governor and lieutenant governor.

2) House Bill 1249 by Untermeyer which relates to the abolition of the State Board of Examiners in Basic Sciences.

Respectfully submitted,

/s/W. P. Clements, Jr.
Governor

SENATE BILL 851 WITH HOUSE AMENDMENT

Senator Parker called **S.B. 851** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - Hendricks

Amend **S.B. 851**, Page 1, line 14, by inserting after the "," and before the word "the" the following:
"jeopardy having attached,"

The amendment was read.

Senator Parker moved to concur in the House amendment.

The motion prevailed.

RECORD OF VOTE

Senator Braecklein asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 374 ORDERED NOT PRINTED

On motion of Senator Schwartz and by unanimous consent, the Conference Committee Report on **S.B. 374** was ordered not printed.

SENATE BILL 916 WITH HOUSE AMENDMENTS

Senator Traeger called **S.B. 916** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1 - Bush

Amend **S.B. 916** as follows:

Strike everything above the enacting clause and substitute the following:

A BILL TO BE ENTITLED

AN ACT

relating to funding deferred compensation programs for certain public employees; including certain credit unions as institutions from which investment products may be purchased for funding deferred compensation programs; amending Section 1, Chapter 197, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-3b, Vernon's Texas Civil Statutes), and Section 3.01, Chapter 186, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 2461-3.01, Vernon's Texas Civil Statutes).

Amendment No. 2 - Bush

Strike everything below the enacting clause and substitute the following:

SECTION 1. Section 1, Chapter 197, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-3b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. The state or any county, city, town, or other political subdivision may, by contract, agree with any employee to defer, in whole or in part, any portion of that employee's compensation and may subsequently, with the consent of the employee, contract for, purchase, or otherwise procure a life insurance, annuity, mutual fund, or other investment contract for the purpose of funding a deferred compensation program for the employee, from any life underwriter duly licensed by this state who represents an insurance company licensed to contract business in this state, any state or national bank domiciled in this state whose deposits are insured by the Federal Deposit Insurance Corporation, any savings and loan association doing business in this state whose accounts are insured by the Federal Savings and Loan Insurance Corporation, or any credit union doing business in this state whose accounts are insured by the National Credit Union Administration or the Texas Share Guaranty Credit Union. The amounts which participating employees agree to defer are the only funds a seller of investment products may receive under this program.

SECTION 2. Section 3.01, Chapter 186, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 2461-3.01, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.01 MEMBERSHIP DEFINED. (a) Membership in a credit union is limited to the incorporators and other persons who:

(1) share a definable community of interest, in accordance with the bylaws of the credit union, including a community of interest based on occupation, association, or residence;

(2) have paid an entrance fee if one is required by the bylaws;

(3) have subscribed to and paid for one or more shares; and

(4) have complied with any other requirements contained in the articles of incorporation and bylaws.

(b) For the purposes of Subsection (a) of this section, the State of Texas acting through the state comptroller as administrator of the State of Texas deferred compensation program or a political subdivision acting through the appropriate officer of the political subdivision as administrator of the political subdivision's deferred compensation program shall be considered a person for membership qualifications in order to fund a deferred compensation program. Notwithstanding the provisions of Subsection (a) of this section, the payment of an entrance fee may not be a membership requirement for the State of Texas or a political subdivision funding a deferred compensation program.

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

The amendments were read.

Senator Traeger moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 951 WITH HOUSE AMENDMENTS

Senator Traeger called **S.B. 951** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1 - Pierce

Substitute the following for S.B. No. 951:

A BILL TO BE ENTITLED

AN ACT

relating to inclusion of certain utility property in public utility ratemaking.

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

SECTION 1. The Public Utility Regulatory Act, as amended (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Section 87A to read as follows:

Sec. 87A. (a) The provisions of this section apply notwithstanding any other provision of this Act.

(b) Water and sewer utility property in service which is acquired from an affiliate or developer included by the utility in its rate base shall be included in all ratemaking formulae and at the installed cost of the property rather than the

price set between the entities. Unless the funds for this property are provided by explicit customer agreements, the property shall be considered invested capital and shall not be considered contributions in aid of construction or customer-contributed capital.

(c) Depreciation expense included in cost of service shall include depreciation on all currently used, depreciable utility property owned by the utility.

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.

Amendment No. 2 - Pierce

Amend **C.S.S.B. 951** on page 1, line 9, by striking the word 'is' and substituting the word 'was' in lieu thereof; also, on page 1, line 10, by inserting the words 'prior to September 1, 1976,' between the word 'developer' and 'included'.

The amendments were read.

Senator Traeger moved to concur in the House amendments.

The motion prevailed.

RECORD OF VOTE

Senator Clower asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

PRESENTATION OF GUEST

The President recognized Senator Longoria who presented Mr. Rod Hinojosa to the Members of the Senate.

Mr. Hinojosa unveiled his painting, a donation to the Senate, depicting the last battle of the Civil War.

The President presented Mr. Hinojosa a copy of Senate Resolution 640 and expressed the appreciation of the Senate to Mr. Hinojosa.

GUESTS PRESENTED

The President presented to the Members Senator and Mrs. A. M. Aikin, Jr.

Senator Aikin made brief remarks to the Senate.

(Senator Farabee in Chair)

SENATE BILL 1156 WITH HOUSE AMENDMENTS

Senator Brooks called **S.B. 1156** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1 - Madla

Amend S.B. No. 1156 by deleting the words "State Board of Education" on page 1, line 14 and on page 2, lines 23 and 24 and substituting therefore the following: "Governor".

Amendment No. 2 - Von Dohlen

Amend S.B. No. 1156, First Printing, as follows:

1. On page 1, line 14, strike "State Board of Education" and substitute "governor in accordance with this section".

2. On page 1, line 17, add the following sentence after "persons.": "The State Board of Education shall nominate three persons for each position, and the governor shall appoint one of those nominees to each position."

3. On page 1, line 21, strike "State Board of Education" and substitute "governor".

4. On page 2, lines 23 and 24, strike "State Board of Education" and substitute "governor in accordance with this section".

5. On page 2, line 26, add the following sentence after "persons.": "The State Board of Education shall nominate three persons for each position, and the governor shall appoint one of those nominees to each position."

6. On page 3, lines 14 and 15, strike "State Board of Education" and substitute "governor".

7. On page 6, line 18, insert "nominate and the governor shall" between "shall" and "appoint".

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 1158 WITH HOUSE AMENDMENTS

Senator Brooks called **S.B. 1158** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1 - Washington

Substitute the following for S.B. No. 1158:

A BILL TO BE ENTITLED
AN ACT

relating to the education of deaf persons.

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

SECTION 1. Section 11.03, Texas Education Code, is amended to read as follows:

Sec. 11.03. SUPERVISION OF THE TEXAS SCHOOL FOR THE DEAF. (a) The Central Education Agency shall have exclusive jurisdiction and control over the Texas School for the Deaf, and it shall be the duty of the

commissioner of education to appoint a superintendent for that school, subject to approval by the State Board of Education. Such jurisdiction shall extend but not be limited to the physical assets of the school, and appropriations made for its benefit shall be administered and expended by the agency.

(b) The Texas School for the Deaf shall:

(1) provide educational services on a day or residential basis to deaf students for whom adequate educational opportunities are unavailable in their local or regional programs;

(2) provide short-term services to deaf students so that they may be better able to benefit from educational services available in their local communities;

(3) provide services for multiply handicapped deaf students who cannot be effectively assisted through community programs, but whose developmental capacities are such that they should not be admitted to residential institutions operated by the Texas Department of Mental Health and Mental Retardation;

(4) be a primary resource to school districts for promoting excellence in educational services for hearing-impaired students;

(5) be a training and staff development resource for those at the community level who are involved in providing educational and related services to hearing-impaired students; and

(6) be a research and demonstration facility to improve methods of providing educational services to meet the current and future needs of hearing-impaired students.

SECTION 2. Chapter 11, Texas Education Code, as amended, is amended by adding Section 11.104 to read as follows:

Sec. 11.104. COUNCIL ON EDUCATIONAL SERVICES FOR THE DEAF. (a) The Council on Educational Services for the Deaf is created and is composed of nine members appointed by the governor with the advice and consent of the senate. Three of the members must be deaf persons, three must each be the parent of a deaf person, and three must be experienced in working with deaf persons.

(b) Members of the council serve for terms of three years, with the terms of three members expiring on January 31 each year.

(c) Members of the council serve without salary but are entitled to reimbursement for actual and necessary expenses incurred in carrying out official duties.

(d) The council shall elect from among its members a presiding officer and other officers that the council considers necessary.

(e) The Central Education Agency shall provide office space and clerical help necessary to the functions of the council.

(f) the governor shall fill vacancies on the council by appointing an appropriate person to serve for the unexpired term.

(g) The council is the principal advisor to the Central Education Agency on all matters relating to the education of the deaf and shall develop and transmit to the agency recommendations concerning the education of the deaf. The commissioner of education and the State Board of Education shall seek the advice of the council before officially adopting any policy that affects the Texas School for the Deaf, the special day school program for the deaf, or any other educational program for the deaf. On each proposed policy submitted to the council, the council shall make either an affirmative or negative recommendation.

(h) Subject to the rules of the State Board of Education, the council shall act for that board in approving or disapproving personnel and administrative actions of the superintendent of the Texas School for the Deaf. A majority of the members of the State Board of Education may reverse any decision of the council concerning the Texas School for the Deaf. The superintendent of the

Texas School for the Deaf shall carry out and enforce the decisions of the council.

SECTION 3. Section 11.04(b), Texas Education Code, is amended to read as follows:

(b) The superintendent may [~~shall~~] reside at the school and shall devote his time exclusively to the duties of his office.

SECTION 4. Chapter 11, Texas Education Code, as amended, is amended by adding Section 11.041 to read as follows:

Sec. 11.041. USE OF FACILITIES OF TEXAS SCHOOL FOR THE DEAF. Organizations approved by the State Board of Education may use the facilities of the physical plant of the Texas School for the Deaf if that use is approved by the superintendent of the school and the use will not interfere with the regular operations of the school.

SECTION 5. Section 11.10(o), Texas Education Code, as amended, is amended to read as follows:

(o) To carry out legislative intent and the objectives of subsections (n) and the following subsections of this Section 11.10, the Central Education Agency shall employ a director and assistant director of services to the deaf. The director of services to the deaf shall develop and administer a comprehensive statewide plan for deaf education services including continuing diagnosis and evaluation, counseling and teaching, and designed to accomplish the following objectives:

(1) Assisting and counseling parents of children of any age whose hearing is determined by professionally acceptable evaluation to be nonfunctional for education purposes, such assistance and counseling to be provided in each of the regional day school programs for the deaf hereinbelow authorized, and admitting all children between the ages of three and 21 whose hearing is determined by professionally acceptable evaluation to be nonfunctional for education purposes to the regional day school programs for the deaf; and

(2) Enabling a majority or as many as may be practicable of deaf children to reside with their parents or guardians and be afforded compensatory education in their home school districts or in facilities of regional day school programs for the deaf; and

(3) Enabling deaf children who are unable to attend schools at their place of residence and whose parents or guardians live too far from facilities of regional day school programs for the deaf for daily commuting or to be accommodated five nights a week in foster homes or other residential school facilities provided for by the Central Education Agency in order that such children may attend a regional day school program for the deaf; and

(4) Enrolling [~~children~~] in the Texas School for the Deaf at Austin or any other educational facility for the deaf as determined by the parents of deaf children only those children whose needs can best be met in that institution, designating the Texas School for the Deaf as the statewide educational resource for students to whom adequate educational opportunities are unavailable in local or regional programs [~~principal regional school for the central region of the state~~]; and

(5) Encouraging children enrolled in regional day school programs for the deaf who have demonstratd ability to do so to return to regular school classes on a part-time, full-time or trial basis. Supplemental aid from the regional day school program for the deaf shall be made available to such children; and

(6) Recognizing the need for development of oral communications abilities in deaf children and the ability of many to achieve high educational excellence through that method, but also recognizing the inability of some to gain

their education successfully by this means, the comprehensive plan developed by the director of services to the deaf [~~Central Education Agency~~] will call for the use of methods of communication which will best meet the needs of each individual deaf child in this state, with each child to be examined thoroughly so as to ascertain his potential for communications through oral means. The director of services to the deaf [~~Central Education Agency~~] may establish separate programs to accommodate diverse communication methodologies.

SECTION 6. Section 11.10(q), Texas Education Code, as amended, is amended to read as follows:

(q) It is the intent of the legislature that local resources be utilized to the fullest practicable extent in the establishment and operation of the regional day school programs for the deaf. The regional directors are [~~Central Education Agency is~~] authorized and expected to contract with any qualified public or private organization or qualified individuals for diagnostic, evaluation and instructional services or any other services incidental to the education of deaf children, including transportation and/or maintenance.

For each regional day school program established, the Central Education Agency shall employ a regional director and an educational program director. The regional director is responsible to the director of services to the deaf for the general administration of the regional program. The educational program director shall develop and implement the educational program of the regional day school, consistent with the statewide plan developed by the director of services to the deaf. The regional director and the educational program director may perform other duties assigned by the Central Education Agency.

On recommendation of the regional directors, the [~~The~~] Central Education Agency shall employ educational and other personnel, may purchase or lease real or personal property, may accept gifts or grants of real or personal property or services from any source, public or private, including independent school districts and any institution of higher learning in this state, for the purpose of establishing and operating regional day school programs for the deaf.

The Central Education Agency may provide by rule or regulation that upon establishment of each regional school the countywide school(s) in that region shall become a part of the regional school operation and that all equipment, classroom supplies, and other personal property owned by the countywide schools shall become the property of the regional day school. When any such programs are combined, the directors and employees of the former countywide schools shall be employed in appropriate, substantially similar capacities within the regional day school program for that region.

SECTION 7. Section 11.10(r), Texas Education Code, as added, is amended to read as follows:

(r) Except for certain transportation costs, costs [~~Costs~~] of operation of the regional day school programs for the deaf shall be borne by the state and paid from the Foundation School Program Fund. Such costs shall be considered and included by the Foundation School Fund Budget Committee in estimating the needs for purposes of the Foundation School Program and the regional day school programs for the deaf. However, funds allocated to countywide schools shall remain so allocated except in those regions in which the countywide program has been made a part of the appropriate region, as aforesaid. Funds specially appropriated to the regional day school program by the General Appropriations Act of the 63rd Legislature, or any substitute therefor, shall be used so as to implement as completely as may be possible the provisions of this Act during the next biennium and in accordance with a budget of expenditures approved by the State Board of Education with the first funds, however, hereby required to be expended for staffing and planning of the regional day school

program. Such funds may be used in conjunction with funds from the Foundation School Program Fund in accordance with rules and regulations adopted by the Central Education Agency, the allocation and reallocation of which is hereby authorized. While the principal cost of educating deaf children shall be borne by the state, independent school districts and all institutions of higher learning in the state are hereby authorized and encouraged to make available real or personal property or services in cooperation with the regional day school programs for the deaf for any activities related to education and betterment of education of deaf children including but not limited to research and personnel training and development. The school district in which a regional day school is located shall bear the costs of transporting students in the program who live within the district, and is entitled to have those students counted in its allotment of transportation funds from the state. The regional day school program shall bear the costs of transporting children who live outside the district to the regional day school. It is the intent of the legislature in enacting this subsection that the use of all of the educational resources of this state be maximized to carry out the intent and objectives of this Act.

SECTION 8. Section 11.16(c), Texas Education Code, as added, is amended to read as follows:

(e) The legislature shall appropriate [~~Subject to legislative appropriation of~~] money from the general revenue fund for the support of the program. The [~~, the available school fund, the minimum foundation program fund, or any other available fund, the~~] Central Education Agency shall allocate to each qualifying school district the sum of $500 [~~Two Hundred Fifty Dollars ($250)~~] per year for each student enrolled in the district's educational program for deaf adults.

SECTION 9. The governor shall appoint members to the Council on Educational Services for the Deaf immediately after the effective date of this Act. The governor shall designate three of the members first appointed for terms expiring in 1980, three for terms expiring in 1981, and three for terms expiring in 1982. In each of those years, the term of one deaf person, one parent of a deaf person, and one person who is experienced in working with the deaf shall expire.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 2 - Washington

Amend C.S.S.B. No. 1158 in the following manner:

(1) Beginning on page 2, line 11 and page 6, line 8, delete all of Sections 2 and 6 of the bill and renumber the subsequent sections accordingly; and

(2) On page 9, line 8, delete the word "shall" and substitute therefore the word "may".

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 385 WITH HOUSE AMENDMENTS

Senator Jones of Harris called **S.B. 385** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Hartung

Amend S.B. No. 385 by striking "repurchase agreements," as those words and comma appear on lines 4 and 5 and 8 and 9 in Section 1 on page 2 of the bill.

Amendment No. 2 - Hartung

Amend S.B. No. 385 as follows:

1. Insert Subdivision (c) in Section 1 to read as follows:

(c) "Board" means the State Depository Board.

2. Strike Sections 3 and 4 and substitute the following:

SECTION 3. INVESTMENT POOL. The investment pool is a fund outside the state treasury and is not subject to legislative appropriation. The state treasurer is custodian of the fund.

SECTION 4. FUNDS SUBJECT TO ACT. A public agency may pay any funds in its custody or control to the state treasurer for deposit in the investment pool unless the deposit of those funds in the pool is prohibited by law.

SECTION 5. INVESTMENT OF FUNDS. (a) The state treasurer shall invest funds in the investment pool in accordance with rules adopted by the board. Investment pool funds may be invested only in time and demand deposits of banks having depository contracts for the deposit of state funds and in other investments authorized by Section 6 of this Act.

(b) The board shall adopt rules governing the investment of investment pool funds designed to insure the greatest possible return consistent with the protection of capital and the need for liquidity.

SECTION 6. AUTHORIZED INVESTMENTS. Investment pool funds may be deposited or invested only in the same manner authorized by law for the deposit or investment of funds within the state treasury.

SECTION 7. CASH FLOW FORECASTING. The board shall provide for a continuous cash flow forecasting system to predict the funds that will be available for time deposits and authorized investments and the amount that will be needed to satisfy the cash demands of the governmental entities having funds in the investment pool.

SECTION 8. DEPOSIT OF FUNDS BY PUBLIC AGENCY. (a) A public agency having funds eligible for deposit under this Act may deposit those funds with the treasurer.

(b) The board may adopt rules governing the procedure to be followed by public agencies in making deposits under this section.

SECTION 9. RECEIPT OF DEPOSITS FROM AGENCIES; ACCOUNTS; REPORTS. (a) The treasurer shall deposit in the investment pool all funds received from public agencies for deposit under this Act.

(b) The treasurer shall establish a separate account in the pool for each public agency. If a public agency depositing funds is required to segregate different types of funds, the treasurer shall establish a separate account for each type of funds.

(c) The treasurer shall credit each deposit to the appropriate account not later than the first day other than a Saturday, Sunday, or official state holiday following the day on which the deposit is received.

SECTION 10. INCOME AND EXPENSES. (a) As soon as possible after the end of each calendar month the state treasurer shall compute for each account in the investment pool the account's pro rata share of income, deduct from that the account's pro rata share of administrative expenses, and credit the account with the balance.

(b) An account's pro rata share of income for a month is determined by computing for each day of the month its pro rata share of net income earned that day from the investment and deposit of all investment pool funds and adding the daily totals for the month. An account's pro rata share of daily income is based on the ratio that the balance of the account on that day bears to the total balance of all accounts in the investment pool on that day.

(c) An account's pro rata share of administrative expenses for a month is determined by applying the daily equivalent of the annual charge for expenses in effect on each day of the month to the balance in the account on that day and adding the daily totals for the month.

(d) Each account in the investment pool is chargeable for the expenses of administering the investment pool at an annual rate prescribed by the board. The rate may not be more than 3/20 of one percent a year. The board may revise the rate from time to time. Until the board sets a different rate, the rate is 1/20 of one percent a year. All amounts charged for administrative expenses shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION 11. WITHDRAWAL AND USE OF FUNDS. (a) A governmental entity may withdraw funds from its account in the investment pool at any time.

(b) The board by rule shall establish procedures for making withdrawals. The board shall attempt to design those procedures in a way that the withdrawal can be accomplished upon notice given by any public agency one day prior to withdrawal.

SECTION 12. Article 2525, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

Art. 2525. DEPOSITORY BOARD. The State Treasurer, as secretary, together with one (1) citizen of the state, appointed by the Governor with the advice and consent of the Senate, who shall serve for a term of two (2) years and the Banking Commissioner, shall constitute the State Depository Board. Said Board shall have the right and the power to make and enforce such rules and regulations governing the establishment and conduct of State Depositories, [~~and~~] the handling of funds therein, and the investment of state funds as the public interest may require, not inconsistent with the provisions of the laws governing such depositories and investments, which rules and regulations shall be in writing and entered upon the minutes of the Board. Subject to Articles 2525a and 2533, Revised Civil Statutes of Texas, 1925, as amended, said [~~Said~~] Board shall have the power to determine and designate the amount of state funds to be deposited and kept [~~by them~~] in State Depositories, the amount of deposits that shall be "demand deposits" and the [~~what~~] amount of deposits that shall be "time deposits," and the amount of State funds that shall be invested or reinvested by the State Treasurer in "authorized investments." The Board may contract with said depositories in regard to the payment of interest on "time or demand deposits" not to exceed such rate as may be lawful under any Act of Congress and such rules and regulations as may be promulgated by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation; provided, that the Board shall designate

the amounts of State funds to be deposited, invested, or reinvested in accordance with Article 2525b, Revised Civil Statutes of Texas, 1925. The term "demand deposits," as used herein, shall mean any deposit which is payable on demand, and the term "time deposits," as used herein, shall mean any deposit with reference to which there is in force a contract that neither the whole nor any part of such deposit may be withdrawn by check or otherwise prior to the expiration of the period of notice which must be given in writing in advance of withdrawals. The term "authorized investments," as used herein, shall mean United States government securities, direct obligations of or obligations the principal and interest of which are guaranteed by the United States of America, direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Bank, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, and Banks for Cooperatives, and agreements to buy, hold for a specified time, and then sell back such securities, obligations, or participation certificates. Whenever the word "treasurer" is used in the statutes it shall mean the State Treasurer, and the word "Board" shall mean the State Depository Board.

SECTION 13. Title 47, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Article 2525b to read as follows:

Art. 2525b. INVESTMENT OF STATE FUNDS. The treasurer shall establish and maintain a continuous cash flow forecasting system to enable him to determine on a daily basis the cash available for investment and to enable the board to adopt a continuing investment plan that will (1) restrict the amount of state funds kept in "demand deposits" accounts in state depositories to those levels authorized by Article 2533, Revised Civil Statutes of Texas, 1925, as amended, (2) maximize the amount of state funds kept in "time deposits" accounts in depository banks or savings and loan associations in this state or invested in certificates of deposit of such banks or savings and loan associations, and (3) provide for the investment in "authorized investments" of state funds not required to be kept in "time deposits" accounts or invested in certificates of deposit and not permitted to be kept in "demand deposits" accounts. The board shall adopt and implement the investment plan no later than January 1, 1980, and may revise the amounts of state funds designated for deposit and investment to reflect changing financial conditions.

After the effective date of this article, it is the duty of the treasurer to maximize the rate of return on funds invested or reinvested in "authorized investments," and to limit "demand deposits" to the amounts authorized by Article 2533, Revised Civil Statutes of Texas, 1925, as amended.

After the adoption and implementation of the investment plan, the treasurer shall deposit and invest funds in accordance with the investment plan.

The board shall authorize the treasurer to invest, and the treasurer shall invest, in "authorized investments," by drawing on "demand deposits" state funds not required to be kept in "time deposits" acounts and that are in excess of permitted "demand deposits" authorized by the board pursuant to Article 2533, Revised Civil Statutes of Texas, 1925, as amended.

The treasurer shall provide such forecast information as the board shall require, and he may require state agencies to provide such revenue and expenditure information as he may need to maintain the cash flow forecasting system.

The board and the treasurer may promulgate rules necessary to implement this title, as amended.

The investment plan shall apply only to state funds deposited in the treasury by state agencies.

SECTION 14. Articles 2532 and 2533, Revised Civil Statutes of Texas, 1925, as amended, are amended to read as follows:

Art. 2532. PLACING DEPOSITS. After the depositories have qualified as provided in the preceding articles, it shall be the duty of the Treasurer to deposit in State Depositories the funds belonging to the State in the amounts determined by the Board [~~in such depositories, as far as practical on a fair percentage basis, and shall at all times keep such funds equitably prorated in proportion to the amount which each is entitled to receive by drawing warrants alternately thereon, or by apportioning the warrants so drawn, and after giving the notice required for the withdrawal of funds deposited to the credit of any "time deposits" in any State Depository or Depositories~~].

Except as provided in this article, the Board shall determine the amounts to be awarded to each State Depository for time deposits or certificates of deposit by soliciting competitive bids. The Board shall accept bids and award deposits in a manner calculated to yield the maximum income to the State, with consideration given to the interest rate offered, the amount of funds for which bids were submitted, and the maturity period offered by each State Depository that submits a bid.

All funds placed in State Depositories in time deposits or in certificates of deposit shall be awarded on the basis of competitive bids, except that prior to accepting bids and awarding deposits, if adequate State funds are forecast, the Board may award up to $100,000 to each eligible depository which agrees to pay the rate of interest set by the Board. The interest rate on these funds not subject to competitive bidding shall be equal to or greater than the yield currently available on United States Treasury bills of the same maturity, and these funds shall have the longest maturity period consistent with the cash forecast, which in no case shall be shorter than six months.

No depositories shall be entitled to keep on deposit State funds in an amount in excess of their paid up capital stock and permanent surplus. Any reduction in the capital stock and permanent surplus of any depository shall reduce correspondingly the amount of State funds which it can retain as a depository, and the Treasurer is authorized to withdraw from said depository any funds in excess of its capital and permanent surplus, provided, that where any depository shall pledge as security for State funds on deposit with it warrants drawn upon the State Treasury against the General Fund of this State as provided by Article 2529, and shall also make the proof required in such Article that such warrants were acquired by it as therein provided, then the limitation upon the amount of deposits that may be placed in said depository shall not apply, but the amount of said funds to be deposited in said depository shall be determined by the State Depository Board.

[~~If there be a surplus after the awards are made, the surplus shall be prorated among the applying banks.~~

[~~Such provisions, however, shall not affect arrangements for clearing checks made by said Board with State Depositories as hereinafter provided.~~]

All State Depositories shall collect all checks, drafts and demands for money so deposited with them by the Treasurer and when using due diligence shall not be liable on such collections until the proceeds thereof have been duly received by the Depository, provided, that any expense incurred in collection thereof by the Depository which the Depository is not allowed or permitted to pay by reason of any Act of the Congress of the United States or any rule or regulation promulgated thereunder by either the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation shall be charged to and paid by the State Treasurer out of any moneys appropriated by the Legislature for that purpose.

If there should be at any time a surplus of State funds above the aggregate amount applied for by and allotted to State Depositories, the Treasurer shall invest the surplus in such "authorized investments" as the Board shall determine and direct; provided, that if any such investment cannot be made, the Treasurer, with the approval of the Board, is hereby authorized to deposit said surplus funds in the vaults of the State Treasury, or the Board shall have the power to deposit said surplus, or any part thereof with any one or more banks in such amounts and for such periods as it may deem advisable, and any bank receiving such deposits under this Article shall execute a bond or furnish collateral in the manner and form provided in Article 2529 under the conditions provided in said Article.

The State Depositories shall show in their statements, published according to law, the amount of State funds on deposit with them.

Art. 2533. CENTRALLY LOCATED DEPOSITORIES; PLACING DEMAND DEPOSITS. The Board shall designate one or more banks which have been selected as State Depositories in centrally located cities to be used for clearing checks and other obligations due the State and shall designate the amounts to be kept on deposit in these banks. [~~, and the Treasurer shall keep sufficient moneys on deposit in the "demand deposits" account in said Depositories to meet all current claims upon the State, and all~~] All items received by the Treasurer for collection shall be deposited with such Depositories to be credited to the "demand deposits" account in said banks, and all checks drawn by the Treasurer for the payment of obligations due by the State may be drawn on such accounts in such Depositories or on the "demand deposits" account in other State Depositories so that the checks of the State may at all times pass current as cash.

No State funds may be kept in "demand deposits" accounts except in accordance with the terms and conditions of a depository contract approved by the Board. The Board may not approve a depository contract that does not specify the services which the bank will provide and the levels of compensating balance which it will receive for each service. Prior to the approval of any depository contract by the Board, the Treasurer shall propose to the Board the levels of compensating balance which should be exchanged for services to be provided by the bank.

No State funds shall be kept in "demand deposits" accounts except to (1) provide adequate funds to pay warrants presented to the Treasurer, (2) provide compensating balances for banks that clear and collect checks, drafts, demands for money, or other obligations due the State and deposited by the Treasurer for collection, (3) provide compensating balances for banks that provide General Revenue Fund deficit warrants as collateral for State "demand deposits," (4) provide compensating balances for banks that provide lockbox services, (5) provide compensating balances for banks that provide other services to the Treasurer, or (6) hold funds that the Treasurer cannot invest, or for emergency purposes that the Board may approve. Notwithstanding the foregoing, State funds may not be kept in "demand deposits" accounts for the purpose of providing compensating balances to a bank in exchange for the cashing or collecting of State warrants, including warrants payable to State employees.

SECTION 15. Article 2537, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

Art. 2537. CANCELLATION OF CONTRACTS. Each State Depository shall have the right to cancel its depository contract upon accounting to the Treasurer for all funds deposited with it at any time by giving thirty days' notice in advance.

The Board shall have the right to terminate a contract with the depository at any time they deem it to the interest of the state to do so, upon giving the depository fifteen days' notice of such termination. The Board shall terminate a contract with a depository if the Finance Commission of Texas notifies the State Treasurer that it has found that the depository has engaged in illegal discriminatory lending patterns or practices. The Treasurer shall discontinue making deposits in any bank when in the opinion of the Board the condition or management of the bank warrants such action on his part.

SECTION 16. Article 2543d, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

Art. 2543d. DISPOSITION OF INVESTMENT INCOME AND INTEREST ON TIME DEPOSITS

Sec. 1. Income from investment of State funds and interest [~~Interest~~] received on account of time deposits of moneys in funds and accounts in the charge of the State Treasurer shall be allocated as follows: To each constitutional fund there shall be credited the pro rata portion of the income and interest received due to such fund. The remainder of the income and interest received, with the exception of that portion required by other statutes to be credited on a pro rata basis to protested tax payments, shall be credited to the General Revenue Fund. The income and interest received shall be allocated on a monthly basis.

Sec. 2. Whenever a deficit occurs in the General Revenue Fund, the State Treasurer may place with any designated depository bank an offsetting compensating balance in a special depository account known as "Special Demand Account Secured by General Revenue Warrants Only."

Sec. 3. As to the proper interpretation and application of this Article, the State Treasurer is entitled to rely upon the opinion and advice of the Attorney General.

SECTION 17. CONFLICT WITH OTHER LAWS. This Act prevails over any general or local law enacted before the convening of the 66th Legislature, Regular Session. Sections 1 through 11 of this Act prevail over any enactment of the 66th Legislature, Regular Session, including a law enacted after enactment of this Act, unless the other law specifically excludes the application of those sections.

SECTION 18. EFFECTIVE DATE. (a) This Act takes effect September 1, 1979.

(b) The state treasurer is not required to accept deposits from public agencies for deposit in the investment pool created by Section 3 of this Act until September 1, 1980. The treasurer may accept deposits at an earlier date if the board and the treasurer have adopted the necessary rules and procedures for operation of the investment pool.

SECTION 19. EMERGENCY. 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.

The amendments were read.

Senator Jones of Harris moved that the Senate concur in the House amendments.

Senator Santiesteban made the substitute motion that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The substitute motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Blake, Braecklein, Creighton, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Moore, Parker, Price, Santiesteban, Schwartz, Short, Traeger, Vale, Williams.

Nays: Andujar, Brooks, Clower, Doggett, Jones of Harris, Mauzy, Mengden, Patman, Truan.

Absent: Ogg.

Absent-excused: Snelson.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 385** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Jones of Harris, Chairman; Williams, Blake, Parker and Santiesteban.

VOTE BY WHICH SENATE CONCURRED IN HOUSE AMENDMENTS TO SENATE BILL 281 RECONSIDERED

On motion of Senator Doggett and by unanimous consent, the vote by which the Senate concurred in House amendments to **S.B. 281** was reconsidered.

Question - Shall the Senate concur in the House amendments?

Senator Doggett moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 281** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Doggett, Chairman; Meier, Schwartz, Jones of Harris and Mauzy.

CONFERENCE COMMITTEE REPORT HOUSE BILL 558

Senator Jones of Taylor submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill No. 558, have met and had the same under consideration, and beg to report back with the recommendation that it do pass in the form attached.

JONES OF TAYLOR
CREIGHTON
FARABEE
MOORE
SCHWARTZ
On the part of the Senate

PRESNAL
AGNICH
HEATLY
RAINS
VALLES
On the part of the House

The Conference Committee Report was read and filed with the Secretary of the Senate.

(Senator Ogg in Chair)

SENATE RESOLUTION 696

Senator Jones of Taylor offered the following resolution:

S.R. 696, Enabling consideration of, and action on, certain specific matters which may be contained in the Conference Committee Report on **C.S.H.B. 558.**

The resolution was read.

On motion of Senator Jones of Taylor and by unanimous consent, further consideration of the resolution was postponed until later today.

Question - Shall the resolution be adopted?

SENATE RULE 103 SUSPENDED

On motion of Senator Meier and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Jurisprudence might consider **H.B. 1741** today.

SENATE RULE 103 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Human Resources might consider **H.B. 2121** and **H.B. 947** today.

HOUSE CONCURRENT RESOLUTION 224

The Presiding Officer laid before the Senate the following resolution:

H.C.R. 224, Commending Robert E. Johnson, Jr., on the occasion of his admission to the State Bar.

The resolution was read.

On motion of Senator Doggett and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE BILL 359 WITH HOUSE AMENDMENTS

Senator Creighton called **S.B. 359** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1 - Donaldson

Amend Senate Bill 359 by striking all below the enacting clause and substituting the following:

"SECTION 1. Article 7.01, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-7.01, Vernon's Texas Civil Statutes), is amended by adding Section (h-1) to read as follows:

"(h-1) In addition to the provisions of Section (h) of this Article, 'principal balance' includes a motor vehicle inspection fee and a documentary fee for services actually rendered to, for, or on behalf of the retail buyer in preparing, handling, and processing documents relating to the motor vehicle and the closing of the transaction evidenced by the retail installment contract. If a documentary fee is charged:

"(i) it must be charged to both cash and credit buyers;

"(ii) it may not exceed $25;

"(iii) it shall be disclosed on the retail installment contract as a separate itemized charge; and

"(iv) the retail installment contract shall include in reasonable proximity to the point in the contract or agreement at which the documentary fee is disclosed, the following notice in boldface type:

"'A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND PERFORMING SERVICES RELATING TO THE CLOSING OF A SALE. BUYERS MAY AVOID PAYMENT OF THE FEE TO THE SELLER BY HANDLING THE DOCUMENTS AND PERFORMING THE SERVICES RELATING TO THE CLOSING OF THE SALE. A DOCUMENTARY FEE MAY NOT EXCEED $25. THIS NOTICE IS REQUIRED BY LAW.'

"(v) If the language primarily used in the oral sales presentation is not the same as that in which the retail installment contract is written, the seller shall furnish to the buyer a written statement containing the notice set out in Subsection (iv) in the language primarily used in the oral sales presentation.

"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."

Amendment No. 2 - Bryant

Amend the amendment to **S.B. 359** at Section 1 by substituting the following for Art. 7.01 (h-1)(iv):

"(iv) all preliminary worksheets in which the motor vehicle retail seller calculates a sale price for the buyer, the buyer's order, and the retail installment contract shall contain the following notice in boldface type:

'A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND PERFORMING SERVICES RELATING TO THE CLOSING OF THE SALE. A DOCUMENTARY FEE MAY NOT EXCEED $25.00. THIS NOTICE IS REQUIRED BY LAW. BUYER'S MAY AVOID PAYMENT OF THE FEE TO THE SELLER BY HANDLING THE DOCUMENTS AND PERFORMING THE SERVICES RELATING TO THE CLOSING OF THE SALE.

Amendment No. 3 - Donaldson, Bryant

Amend **S.B. 359** at Section 1 by substituting the following for Art. 7.01 (h-1)(iv):

"(iv) all preliminary worksheets which are exhibited to the buyer in which the motor vehicle retail seller calculates a sale price for the buyer, the buyer's order, and the retail installment contract shall include in reasonable proximity to the point in the worksheet, buyer's order, and retail installment contract where the documentary fee is disclosed, the amount of the documentary fee to be charged and the following notice in boldface type:

'A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND PERFORMING SERVICES RELATING TO THE CLOSING OF A SALE. BUYERS MAY AVOID PAYMENT OF THE FEE TO THE SELLER BY HANDLING THE DOCUMENTS AND PERFORMING THE SERVICES RELATING TO THE CLOSING OF THE SALE. A DOCUMENTARY FEE MAY NOT EXCEED $25. THIS NOTICE IS REQUIRED BY LAW.'"

The amendments were read.

Senator Creighton moved that the Senate concur in the House amendments.

Senator Doggett made the substitute motion that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The substitute motion was lost by the following vote: Yeas 9, Nays 21.

Yeas: Blake, Clower, Doggett, Mauzy, Parker, Patman, Schwartz, Short, Truan.

Nays: Andujar, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Traeger, Vale, Williams.

Absent-excused: Snelson.

Question recurring on the motion to concur in the House amendments, the Senate concurred in the House amendments by the following vote: Yeas 21, Nays 9.

Yeas: Andujar, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Traeger, Vale, Williams.

Nays: Blake, Clower, Doggett, Mauzy, Parker, Patman, Schwartz, Short, Truan.

Absent-excused: Snelson.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and filed with the Secretary of the Senate:

Austin, Texas
May 26, 1979

TO THE SENATE, SIXTY-SIXTH LEGISLATURE; REGULAR SESSION:

Pursuant to the provisions of Article III, Section 5, of the Constitution of Texas, I herewith submit as an emergency matter the following:

1) Senate Bill 245 by Moore which relates to the sale or exchange of certain property by the Texas Board of Corrections.

2) Senate Bill 1251 by Traeger which relates to the authority of the governor to transfer certain programs to other agencies.

Respectfully submitted,

/s/W. P. Clements, Jr.
Governor

(President in Chair)

HOUSE BILL 1358 REREFERRED

Senator Truan moved that **H.B. 1358** be withdrawn from the Committee on State Affairs and rereferred to the Committee on Human Resources.

The motion prevailed by the following vote: Yeas 18, Nays 9.

Yeas: Brooks, Clower, Doggett, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, Meier, Moore, Patman, Santiesteban, Schwartz, Short, Truan, Vale, Williams.

Nays: Andujar, Blake, Braecklein, Creighton, Farabee, Harris, McKnight, Mengden, Price.

Absent: Ogg, Parker, Traeger.

Absent-excused: Snelson.

SENATE BILL 994 WITH HOUSE AMENDMENT

Senator Moore called **S.B. 994** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - Massey

Substitute the following for S.B. No. 994:

A BILL TO BE ENTITLED

AN ACT

relating to the powers, duties, and financing of the Trinity River Authority of Texas and the authority of persons and public agencies to contract with the authority with reference thereto; amending Chapter 518, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 8280-188, Vernon's Texas Civil Statutes).

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

SECTION 1. Chapter 518, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 8280-188, Vernon's Texas Civil Statutes), is amended by adding Section 5b to read as follows:

"Section 5b. (a) The authority is a district and a river authority as defined in the Regional Waste Disposal Act, as amended (Chapter 30, Water Code), and all of the provisions of the Regional Waste Disposal Act, as amended, are applicable to the authority, except to the extent of any conflict with this Act, in which case this Act shall prevail over the provisions of the Regional Waste Disposal Act, as amended.

"(b) as used in this Act:

"(1) 'Person' means any individual, partnership, corporation, public utility, or other private entity or any public agency.

"(2) 'Public agency' means any authority, district, city, town, or other political subdivision, joint board, or other public agency created pursuant to and operating under the laws of the State of Texas.

"(c) The authority and all persons are authorized to contract with each other in any manner and on terms as to which the parties may agree with respect to any power, functions, facilities, or services of the authority. All public agencies are authorized to use and pledge any available revenues for and in the payment of amounts due under the contracts as an additional source or sources of payment of the contracts or as the sole source or sources of payment of the contracts and may covenant with respect to available revenues so as to assure the availability of these revenues when required. The term 'revenues' as used in this subsection does not mean or include revenues from ad valorem taxes levied and collected by a public agency or the proceeds from the sale or refunding of bonds of a public agency that are to be wholly or partially paid from ad valorem taxes levied and collected by the public agency unless the use or pledge of the tax revenues or bond proceeds are approved by the qualified voters of the public agency at an election called for the purpose of levying taxes or issuing or refunding bonds or both for the purpose of using or pledging their revenues or proceeds under contracts entered into under this subsection.

"(d) Each public agency is authorized to fix, charge, and collect fees, rates, charges, rentals, and other amounts for any services or facilities provided by any utility operated by it or provided pursuant to or in connection with any contract with the authority from its inhabitants or from any users or beneficiaries of any utility, services, or facilities, including specifically water charges, sewage charges, solid waste disposal system fees and charges, including garbage collection or handling fees, and other fees or charges, and to use and pledge same to make payments to the authority required under the contract and may covenant to do so in amounts sufficient to make all or any part of the payments to the authority when due. The payments shall, if the parties agree in the contract, constitute an expense of operation of any facilities or utility operated by the public agency.

"(e) The authority, acting through its board of directors, is authorized to undertake and carry out any activities and to acquire, purchase, construct, own, operate, maintain, repair, improve, or extend and to lease or sell on terms and conditions, including rentals or sale prices, on which the parties may agree, any and all works, improvements, facilities, plants, buildings, structures, equipment, and appliances, and all real and personal property or any interest in real or personal property related thereto, that are incident to or necessary in carrying out or performing any power or function of the authority under this section.

"(f) The authority is authorized to issue bonds with respect to the acquisition, purchase, construction, maintenance, repair, improvement, and extension of works, improvements, facilities, plants, buildings, structures, appliances, and property for the purpose of exercising any of its powers and functions under this section in the manner provided in Section 8 of this Act. The authority is further authorized to issue revenue bonds to pay for the costs of feasibility studies for proposed projects of the authority, including engineering, planning and design, and environmental studies. The authority is authorized to include in any revenue bond issue the funds to operate and maintain for a period not to exceed two years after completion, the facilities acquired or constructed through the revenue bond issue. If any bonds issued by the authority recite that they are secured by a pledge of payments under any contract, a copy of the contract and the proceedings relating to the contract shall be submitted to the attorney general along with the bonds, which must be submitted under Subsection (1) of Section 8 of this Act, and if the attorney general finds that the bonds have been authorized and the contract or contracts has or have been made and entered into in accordance with law, then he shall approve the bonds and the contract or contracts, and after the approval, the bonds and the contract or contracts shall be incontestable in any court or other forum for any reason and shall be valid and binding in accordance with its or their terms and provisions for all purposes. The provisions of Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes), and the Texas Uniform Facsimile Signature of Public Officials Act, as amended (Article 717j-1, Vernon's Texas Civil Statutes), are applicable to bonds issued by the authority.

"(g) This section is wholly sufficient authority within itself for the issuance of the bonds, the execution of contracts, and the performance of the other acts and procedures authorized in this section by the authority and all persons, including specifically public agencies, without reference to any other provisions of law or any restrictions or limitations contained therein, except as in this section specifically provided; and in any case, to the extent of any conflict or inconsistency between any provisions of this subsection and any other provisions of law, including any home-rule city charter, this subsection shall prevail and control; provided, however, that the authority and all persons, including specifically public agencies, shall have the right to use any other provisions of

law not in conflict with the provisions of this section to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this section.

"(h) The provisions of this section shall have no effect on the taxing power of the authority or the election process pertaining thereto; further, the provisions of Section 5b shall not alter, amend, repeal or change any provision of Section 6A of this Article 8280-188, as added by Chapter 273, Acts of the 60th Legislature, Regular Session, 1967."

SECTION 2. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Article XVI, Section 59(d), of the Texas Constitution has been made in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satifsy such requirements.

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

The amendment was read.

Senator Moore moved to concur in the House amendment.

The motion prevailed.

RECORD OF VOTE

Senator Patman asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

SENATE BILL 446 WITH HOUSE AMENDMENT

Senator Schwartz called **S.B. 446** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - Schlueter

Amend **S.B. 446** on page 1, line 25, by striking the words "at least".

The amendment was read.

Senator Schwartz moved to concur in the House amendment.

The motion prevailed.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2096 ADOPTED

Senator Brooks called from the President's table the Conference Committee Report on **H.B. 2096.** (The Conference Committee Report having been filed with the Senate and read on Friday, May 25, 1979.)

On motion of Senator Brooks, the Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 530

Senator Mauzy called from the President's table the Conference Committee Report on **S.B. 530.** (The Conference Committee Report having been filed with the Senate and read on Friday, May 25, 1979.)

Senator Mauzy moved that the Senate adopt the Conference Committee Report.

Senator Santiesteban raised the Point of Order that adoption of the Conference Committee Report was out of order in that the Conferees were improperly appointed, in violation of Senate Rule 95 (Majority of the Conferees were not Members of the Committee on Education.)

The President sustained the Point of Order. Accordingly, the conferees on **S.B. 530** were discharged.

Question - Shall the Senate concur in the House amendments?

CONFERENCE COMMITTEE APPOINTED SENATE BILL 530

Senator Mauzy moved that the Senate do not concur in the House amendments, but that a new Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the new Conference Committee on **S.B. 530** before appointment.

There were no motions offered.

The President announced the appointment of the following new conferees on the part of the Senate on **S.B. 530**: Senators Mauzy, Chairman; Meier, Schwartz, Santiesteban and Parker.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 164 ADOPTED

Senator Ogg called from the President's table the Conference Committee Report on **S.B. 164.** (The Conference Committee Report having been filed with the Senate and read on Friday, May 25, 1979.)

On motion of Senator Ogg, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Patman.

Absent-excused: Snelson.

SENATE BILL 455 WITH HOUSE AMENDMENTS

Senator Ogg called **S.B. 455** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Henderson

Amend S.B. No. 455 by making the following changes:

1) On page 1, line 22, add the phrase "approved by the Texas Department of Public Safety" after the word "course";
2) On page 1, line 25, insert the underlined word "written" after the word "present";
3) On page 2, line 3, strike the word "a" after the word "court" and substitute therefore the phrase "an oral request or written"; and
4) On page 2, line 7, insert the underlined phrase "as maintained by the Texas Department of Public Safety" after the word "record"; and on line 8, add the words "under this subdivision" after the word "course".

Committee Amendment No. 2 - Henderson

Amend S.B. No. 455 as follows:

(1) Strike the sentence beginning on page 2, line 13, and substitute the following:

"When a charge is dismissed under this section, the charge may not be part of the person's driving record or used for any purpose, but the court shall report the fact that a person has successfully completed a driving safety course and the date of completion to the Texas Department of Public Safety for inclusion in the person's driving record. The court shall note in its report whether the course was taken under the procedure provided by Subdivision (2) of Subsection (a) of this section, for the purpose of providing information necessary to determine eligibility to take a subsequent course under that subdivision."

(2) Strike Section 2 of the bill and substitute the following:

SECTION 2. Section 21(f), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

"(f) The Department is authorized to provide information pertaining to an individual's date of birth, current license status, most recent address, completion of an approved driver education course, the fact of (but not the reason for) completion of a driving safety course, and a listing of reported traffic law violations, and motor vehicle accidents, by date and location, as listed on the records of the Department upon written request and the payment of a Three Dollar ($3.00) fee by a person showing a legitimate need for such information, provided, however, that if requests for such information be prepared in quantities of one hundred (100) or more from a single person at any one time and upon data processing request forms acceptable to the Department, such information may be provided upon payment of a One Dollar ($1.00) fee for each individual request."

The amendments were read.

Senator Ogg moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Snelson.

SENATE RULE 74a SUSPENDED

On motion of Senator Andujar and by unanimous consent, Senate Rule 74a was suspended as it relates to House amendments to **S.B. 378.**

SENATE BILL 378 WITH HOUSE AMENDMENTS

Senator Andujar called **S.B. 378** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Hartung

Amend **S.B. 378** by adding a new subsection (c) to Section 4 thereof as follows:

"(c) The provisions of this Act shall not apply to arrangement and accounts covered by Chapter 15 of Subtitle 3, Title 75, Interest-Consumer Credit-Consumer Protection, Revised Civil Statutes of Texas, 1925, as amended, by Senate Bill 811, 66th Legislature."

Amendment No. 2 - Von Dohlen

Amend **S.B. 378** by adding a new subsection (c) to Section 4 thereof as follows:

"(c) The provisions of this Act shall not apply to arrangement and accounts covered by Chapter 15 of Subtitle 3, Title 79, Interest-Consumer Credit-Consumer Protection, Revised Civil Statutes of Texas, 1925, as amended, by Senate Bill 811, 66th Legislature."

The amendments were read.

Senator Andujar moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Patman.

Absent-excused: Snelson.

CO-SPONSOR AUTHORIZED

On motion of Senator Harris and by unanimous consent, he will be shown as a co-sponsor of **H.B. 940.**

HOUSE BILL 940 ON SECOND READING

Senator Harris asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 940, Relating to the taxation of certain buses and repair and replacement parts for certain buses.

There was objection.

Senator Harris then moved to suspend the regular order of business and take up **H.B. 940** for consideration at this time.

The motion prevailed by the following vote: Yeas 22, Nays 8.

Yeas: Andujar, Braecklein, Brooks, Clower, Creighton, Farabee, Harris, Jones of Harris, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Price, Santiesteban, Traeger, Truan, Vale, Williams.

Nays: Blake, Doggett, Howard, Jones of Taylor, Moore, Patman, Schwartz, Short.

Absent-excused: Snelson.

The bill was read second time and was passed to third reading by the following vote: Yeas 21, Nays 9.

Yeas: Andujar, Braecklein, Brooks, Clower, Creighton, Harris, Jones of Harris, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Price, Santiesteban, Traeger, Truan, Vale, Williams.

Nays: Blake, Doggett, Farabee, Howard, Jones of Taylor, Moore, Patman, Schwartz, Short.

Absent-excused: Snelson.

REASON FOR VOTE ON HOUSE BILL 940

The estimates of the Legislative Budget Board on May 15, 1979, on the revenue losses to the State of Texas from passage of HB 940 for each of the next five years were as follows:

1980	$1,549,000
1981	1,724,000
1982	1,916,000
1983	2,116,000
1984	2,341,000
	$9,646,000

This bill would have abolished the tax on sales and leases of buses, favoring just a few companies, primarily Continental and Greyhound. Those two would garner over 60 percent of the benefit of this tax repeal. With so many needed programs denied and put on short financial rations by budgetary authorities, it was fiscally irresponsible to even consider this large benefit to a special interest

with no evidence as to need or even slightly justifiable grounds. Advancement of the bill to where it was one step away from final passage was testimony to political power rather than evidence of a meritorious case. No interim study committee recommended the bill. Political influence provided its impetus. I think it was a sad commentary on the session that HB 940 should be the last item of pending business carried forward during the final forty-eight hours. Yet it is to the credit of this session that this bill was, in fact, defeated by the certainty of the extended debate which would have resulted from its further consideration.

PATMAN

SENATE RULE 103 SUSPENDED

On motion of Senator Jones of Taylor and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Economic Development might consider **H.C.R. 183** today.

RESOLUTIONS ADDED TO LOCAL AND UNCONTESTED BILLS CALENDAR

On motion of Senator Howard and by unanimous consent, the following resolutions were added to the Local and Uncontested Bills Calendar scheduled to be held today:

H.C.R. 193
S.C.R. 102

CONSIDERATION OF NOMINATIONS

The President announced that the time had arrived for the Senate to consider the nominations to agencies, boards and commissions. (Notice of submission of these names having been given by Senator McKnight yesterday.)

REPORT OF STANDING COMMITTEE

Senator McKnight submitted the following report for the Subcommittee on Nominations:

To be Members of the BOARD OF DIRECTORS, LOWER COLORADO RIVER AUTHORITY: B. L. Parker, Bastrop County; E. B. "Tex" Mayer, Fayette County; Bert L. Huebner, Matagorda County; John Nash, Travis County; William Petri, Travis County; Roger Gilbert Zercher, Blanco County; Thomas H. Dean, San Saba County.

Senator McKnight moved confirmation of the nominees reported by the Subcommittee on Nominations.

The President asked if there were requests to sever nominees.

Senator Moore requested the severance of Mr. William Petri to be a Member of the Board of Directors, Lower Colorado River Authority.

Senator Doggett requested the severance of Mr. Roger Gilbert Zercher and Mr. John Nash to be Members of the Board of Directors, Lower Colorado River Authority.

The requests were granted.

NOMINEES CONFIRMED

The nominees not severed and reported by the Subcommittee on Nominations were confirmed by the following vote: Yeas 30, Nays 0.

Absent-excused: Snelson.

Senator Doggett moved the nominations of Messers: Petri, Nash and Zercher be committed to the Subcommittee on Nominations.

Question - Shall the nominations be committed to the Subcommittee on Nominations?

RECESS

On motion of Senator Moore the Senate at 11:47 o'clock a.m. took recess until 2:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

House Chamber
May 26, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

H.C.R. 225 Instructing the chief clerk, when enrolling **H.B. 1137**, to make certain changes

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CHANGE IN APPOINTMENTS TO CONFERENCE COMMITTEE ON SENATE BILL 681

The President announced the following Conference Committee, as changed, on **S.B. 681** from that previously appointed: Senators Brooks, Chairman; Williams, Jones of Harris, Schwartz and Mengden.

CHANGE IN APPOINTMENTS TO CONFERENCE COMMITTEE ON SENATE BILL 1268

The President announced the following Conference Committee, as changed, on **S.B. 1268** from that as previously appointed: Senators Truan, Chairman; Parker, Clower, Kothmann and Williams.

CONFERENCE COMMITTEE REPORT SENATE BILL 530

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 530** 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.

MAUZY
MEIER
SCHWARTZ
On the part of the Senate

HALL
THOMPSON
CARAWAY
CARY
On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to the tuition paid by foreign students at state-supported institutions of higher education; amending Subsections (h) and (i) of Section 54.051, Texas Education Code, as amended.

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

SECTION 1. Subsections (h) and (i), Section 54.051, Texas Education Code, as amended, are amended to read as follows:

"(h) Tuition for students who are citizens of any country other than the United States of America is the same as tuition required of other nonresident students. [~~However, the governing board of an institution of higher education may set a lower fee for a foreign student, based on financial need, as authorized by rules and policies of the Coordinating Board, Texas College and University System. The lower fee in any case shall be not less than $14 per semester credit hour, and the total of such charge shall be not less than $200 per semester or 12 week summer session, and not less than $100 per 6-week summer term.~~

~~However, if a student is a citizen of a country that charges citizens of the United States tuition at publicly funded colleges and universities in an amount which is equal to or less than $200 per semester or 12 week summer session or comparable period, or $100 per 6 week summer term or comparable period, as determined by the Coordinating Board, Texas College and University System, the student shall be charged $14 per semester credit hour, but not less than $200 per semester or 12 week summer session nor less than $100 per six week summer term.~~]

"(i) Tuition for students who are citizens of any country other than the United States of America registered in a medical or dental branch, school or college is the same as tuition required of other nonresident students. [~~However, the governing board of an institution of higher education may set a lower fee for a foreign student, based on financial need, as authorized by rules and policies of the Coordinating Board, Texas College and University System. The lower fee in any case may not be less than $300 per academic year of 12 months. However, if a student is a citizen of a country that charges citizens of the United States tuition at a publicly funded medical or dental branch, school, or college in an amount which is equal to or less than $800 per academic year of 12 months or comparable period, as determined by the Coordinating Board, Texas College and University System, the student shall be charged $800 per academic year of 12 months.~~]"

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.

The Conference Committee Report was read and filed with the Secretary of the Senate.

REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator Creighton submitted the following report for the Committee on Economic Development:

H.B. 225
H.C.R. 183
H.C.R. 168
H.B. 1775
H.B. 1799

By unanimous consent, Senator Farabee submitted the following report for the Committee on Jurisprudence:

H.B. 179 (Ordered not printed)
H.B. 1691 (Ordered not printed)
H.B. 1741

By unanimous consent, Senator Brooks submitted the following report for the Committee on Human Resources:

H.C.R. 64
H.B. 947 (Ordered not printed)
S.R. 692 (Amended) (Ordered not printed)
S.R. 693 (Amended) (Ordered not printed)
H.B. 1358 (Ordered not printed)
H.B. 2121 (Ordered not printed)

BILLS ORDERED NOT PRINTED

On motion of Senator Creighton and by unanimous consent, the following bills were ordered not printed:

H.B. 1775
H.B. 1799

BILLS ORDERED NOT PRINTED

On motion of Senator Brooks and by unanimous consent, the following bills were ordered not printed:

H.B. 947
S.R. 692
S.R. 693
H.B. 1358
H.B. 2121

SENATE BILL 580 WITH HOUSE AMENDMENTS

Senator Schwartz called **S.B. 580** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Bird

Amend **S.B. 580** by the following:

Renumber Section 11 to Section 12.

Add a new Section 11 to amend Section 47.052 of the Parks and Wildlife Code, to read as follows:

Section 47.052. Penalty (a) A person who fails to comply with or who violates a provision of Section ~~47.003(a)~~ 47.003 or 47.007 of this code is guilty of a misdemeanor and on conviction is guilty is punishable by a fine of not less than $100 nor more than $1,100, by confinement in jail for not less than one month nor more than one year, or by both.

Amendment No. 2 - Sullivant, Bush

Amend S.B. No. 580 by adding a new section before the emergency clause, appropriately numbered, to read as follows and by renumbering the emergency clause accordingly:

SECTION ____. Section 46.104, Parks and Wildlife Code, is amended to read as follows:

"Section 46.104. LICENSE: PERIOD OF VALIDITY AND FEE. (a) A Lake Texoma fishing license is valid until December 31 following its date of issuance.

"(b) The fee for the license is $5 [~~$2.50~~]. Fifteen cents of the fee may be retained by the issuing officer."

The amendments were read.

Senator Schwartz moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 1204 WITH HOUSE AMENDMENTS

Senator Schwartz called **S.B. 1204** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1 - McLeod

COMMITTEE SUBSTITUTE FOR **S. B. 1204**

A BILL TO BE ENTITLED

AN ACT

providing for the depositing of the public funds of Galveston County in a bank or banks of the County and the notice to banks required.

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

Section 1. The Commissioners Court of Galveston County is hereby authorized at the February Regular Term thereof, to enter into a contract with any banking corporation, association or individual banker in such County for the depositing of the public funds of such County in such bank or banks, provided however, that the Commissioners Court of Galveston County is required at the February Regular Term thereof next following each general election to enter into such contracts for the depositing of public funds. Notice that such contracts will be made by the Commissioners Court shall be published by and over the name of the County Judge, once each week for at least twenty (20) days before the commencement of such term in some newspaper published in said County, and if no newspaper be published therein, then in any newspaper published in the nearest County. In addition thereto, notice shall be published by posting same at the courthouse door of said County.

Section 2. Emergency Clause. The importance of this legislation and the crowded condition of the calendars of 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 to be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 2 - Criss

Amend C.S.S.B. No. 1204 by striking Section 1 and substituting the following:

SECTION 1. The commissioners court of any county with a population of less than 200,000 is hereby authorized at the February regular term thereof to enter into a contract with any banking corporation, association, or individual banker in such county for the depositing of the public funds of such county in such bank or banks; provided, however, that such commissioners court is required at the February regular term thereof next following each general election to enter into such contracts for the depositing of public funds. Notice that such contracts will be made by the commissioners court shall be published by and over the name of the county judge once each week for at least 20 days before the commencement of such term in some newspaper published in said county, and if no newspaper be published therein, then in any newspaper published in the nearest county. In addition thereto, notice shall be published by posting same at the courthouse door of said county.

Amendment No. 3 - Criss

Amend the caption of C.S.S.B. No. 1204 to read as follows:

A BILL TO BE ENTITLED
AN ACT

relating to contracts for the depositing of the public funds of counties with populations of 200,000 or less in a bank or banks of the county and notice required.

The amendments were read.

Senator Schwartz moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 1131 WITH HOUSE AMENDMENTS

Senator Schwartz called **S.B. 1131** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Von Dohlen

Substitute the following for **S.B. 1131**:

A BILL TO BE ENTITLED
AN ACT

relating to the administration and powers and duties of the Texas Conservation Foundation; amending Sections 181.001, 181.011, 181.012, 181.013, 181.014, 181.051, 181.053, 181.054, 181.055, and 181.056 and Subsection (b) of Section 181.018 and Subsection (b) of Section 181.057, Natural Resources Code; and adding Subdivision (3) to Section 181.002, Natural Resources Code.

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

SECTION 1. Sections 181.001, 181.011, 181.012, 181.013, 181.014, 181.051, 181.053, 181.054, 181.055, and 181.056, Natural Resources Code, are amended to read as follows:

"Section 181.001. PURPOSE. The Texas Conservation Foundation is established to encourage private gifts of real and personal property or income from or other interest in real and personal property, to survey and collect data concerning the natural resources and areas of Texas, to apply for, receive, and make proper use of federal grants and funds as well as private funds, to create a register of Texas' unique natural areas and resources, and make timely acquisition by purchase or option of any property for the benefit of or in connection with the Texas state system of historic sites, parks, refuges, wildlife preserves, wildlife management areas, and scientific and recreational areas, and thereby further the conservation of natural, scenic, historical, scientific, educational, inspirational, wildlife, or recreational resources for future generations of Americans."

"Section 181.011. TEXAS CONSERVATION FOUNDATION. A charitable and nonprofit corporation known as the Texas Conservation Foundation is established to perform the acts and have the duties and purposes in Section 181.001 of this code and to accept and administer gifts and otherwise to acquire and hold property or interests in property in accordance with the provisions of [~~Section 181.001 of~~] this code.

"Section 181.012. MEMBERS OF BOARD. (a) The foundation shall be governed by a board that shall have as members:

"(1) the executive director of the Parks and Wildlife Department;

"(2) the Commissioner of the General Land Office [~~chairman of the Parks and Wildlife Commission~~];

"(3) the executive director of the Texas Historical Commission; and

"(4) Three [~~nine~~] interested [~~private~~] citizens of the State of Texas, one appointed by the governor, one appointed by the Speaker of the House of Representatives and one appointed by the lieutenant governor. [~~with the advice and consent of two-thirds of the senate.~~]

"(b) [~~Two of the private citizens must have a generally recognized and special competence in one or more of the following areas ecology, biology, botany, or private, volunteer, land, water, and wildlife conservation work. At least one of these members must be from statewide conservation groups. Each of the seven other private citizens must have a generally recognized and special competence in one or more of the following areas investments, real estate transactions and holdings, oil and gas, industry, banking, and general business.~~

"[~~(c)~~] Membership on the board is not considered to be an office within the meaning of the statutes and the Texas Constitution.

"(c) Each member who is named in Subsection (a)(1), (2), or (3) of this section may designate in writing from time to time a representative from his staff to serve by proxy as a member of the board, thereby vesting full authority of each member in his representative.

"(d) No public funds for maintenance, operations or construction shall be expended by any agency of the state without express legislative authorization either through the general appropriation act or separate statute.

"Section 181.013. TERMS OF OFFICE. Each citizen member shall serve at the pleasure of the official who appointed him. (~~(a)~~) The initial terms of the appointed members shall be staggered so that the terms of one third of the initial members will expire every two years.

"(~~(b) After the initial terms, the term of each appointed member shall be six years with the terms of one third of the appointed members expiring on January 31 of each odd-numbered year~~]

"Section 181.014. BOARD OFFICERS. (a) The governor shall annually select the chairman from among the Board membership.

"(b) The executive director of the Parks and Wildlife Department shall be secretary of the board.

"(c) The governor may from time to time appoint a variable number of advisors to the board, who shall have no vote or receive any compensation but who shall be persons of competence who have a genuine interest in furthering the goals of the foundation. The advisors shall serve at the pleasure of the governor."

"Section 181.051. IN GENERAL. The foundation may:

"(1) contract in its own name with any governmental agency or private person or entity;

"(2) act through agents and employees;

"(3) execute and acknowledge all instruments;

"(4) contract for necessary services; [~~and~~]

"(5) maintain confidential files, not subject to the provisions of Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), regarding details of the location, ownership, quantity, and identifying data related to any archeological, paleontological, or geological site or any species of plants or wildlife that are rare, threatened, or endangered or subject to abuse by collectors; and

"(6) do any lawful acts necessary or appropriate to its statutory purposes."

"Section 181.053. ANNUAL REPORT. As soon as practicable after the end of each fiscal year, the foundation shall transmit to the legislature and the governor an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, property, and investments.

"Section 181.054. GIFTS, DEVISES, TRUSTS, AND BEQUESTS. (a) The foundation may accept, receive, solicit, hold, administer, and use gifts, devises, trusts, or bequests, either absolutely or in trust, of real or personal property or income from or other interest in real or personal property for the benefit of or in connection with the Texas system of natural areas, parks, refuges, scientific, historical, prehistoric, educational, inspirational, [~~wildlife preservation,~~] wildlife management, or recreational areas and sites.

"(b) An interest in real property includes easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historical, archeological, geological, scientific, educational, inspirational, wildlife, or recreational resources anywhere in the State of Texas.

"Section 181.055. GIFTS, DEVISES, AND BEQUESTS SUBJECT TO RESTRICTION OR BENEFICIAL INTEREST. The foundation may accept a gift, devise, or bequest that is encumbered, restricted, or subject to a beneficial interest of private persons or corporations as long as any current or future use or interest in the gift, devise, or bequest is for the benefit of the Texas system of natural areas, parks, refuges, and scenic, wildlife preservation, historical, archeological, geological, wildlife management, or scientific areas.

"Section 181.056. PURCHASE OR OTHER ACQUISITION OF LAND. (a) To the extent that funds or credit are available to it for this purpose, the foundation may enter into and exercise purchase options, buy by outright purchase, or contract for, trade for, or otherwise acquire in the title and name of the foundation any land or interest in land that the foundation considers significant and necessary for the purposes of the foundation.

"(b) Unless specially restricted by the instrument of transfer, the foundation may hold this land or interest in land in undeveloped and protective holdings if [~~that~~] the foundation considers such holding necessary for the accomplishment of its statutory purposes."

SECTION 2. Subsection (b), Section 181.018, Natural Resources Code, is amended to read as follows:

"(b) The members of the board are not personally liable, except for malfeasance, and are granted immunity from civil liability while performing their official functions."

SECTION 3. Subsection (b), Section 181.057, Natural Resources Code, is amended to read as follows:

"(b) The foundation shall not engage in any business, nor shall it make any investment that may not lawfully be made under the Texas Trust Act, as amended (Article 7425b—1, Vernon's Texas Civil Statutes), except that the foundation may make any investment that is authorized by the instrument of transfer and may retain, manage, and operate any property accepted by the foundation."

SECTION 4. Section 181.002, Natural Resources Code, is amended by adding Subdivision (3) to read as follows:

"(3) 'Member' means a member of the board who has voting rights."

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 2 - McBee

Amend C.S.S.B. No. 1131 as follows:

On page 4, line 19, strike the semi-colon and add the following:

". No privately-owned property may be listed in such files unless and until the owner, or a majority of the owners, if the property is owned by more than two people, gives written consent to allow its inclusion. Nothing contained herein shall be construed as legislative condonance of unauthorized entry on to private property;"

Amendment No. 3 - Agnich

Amend **C.S.S.B. 1131** on page 3, lines 12 through 15, by substituting the following for the language therein:

"(d) No state funds for property maintenance, operations or development shall be expended by an agency of the state pursuant to the provisions of this Act without express legislative authorization either through the general appropriations act or separate statute."

The amendments were read.

Senator Schwartz moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Snelson.

CHANGE IN APPOINTMENTS TO CONFERENCE COMMITTEE ON SENATE BILL 1168

The President announced the following Conference Committee, as changed, on **S.B. 1168** from that previously appointed: Senators Mauzy, Chairman; Parker, Williams, Kothmann and Truan.

CHANGE IN APPOINTMENTS TO CONFERENCE COMMITTEE ON SENATE BILL 1169

The President announced the following Conference Committee, as changed, on **S.B. 1169** from that as previously appointed: Senators Mauzy, Chairman; Parker, Williams, Kothmann and Truan.

CHANGE IN APPOINTMENTS TO CONFERENCE COMMITTEE ON SENATE BILL 1170

The President announced the following Conference Committee, as changed, on **S.B. 1170** from that as previously appointed: Senators Mauzy, Chairman; Parker, Williams, Kothmann and Truan.

CHANGE IN APPOINTMENTS TO CONFERENCE COMMITTEE ON SENATE BILL 1171

The President annnounced the following Conference Committee, as changed, on **S.B. 1171** from that as previously appointed: Senators Mauzy, Chairman; Parker, Williams, Kothmann and Truan.

(Senator Farabee in Chair)

HOUSE BILL 2205 ON THIRD READING

Senator Short moved to suspend the regular order of business to take up on its third reading and final passage:

H.B. 2205, Relating to the creation, purposes, powers, duties, operation, expansion, and financing of water import authorities; providing a penalty.

The motion prevailed by the following vote: Yeas 24, Nays 6.

Yeas: Andujar, Brooks, Clower, Creighton, Farabee, Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Blake, Braecklein, Doggett, Howard, Jones of Harris, Mauzy.

Absent-excused: Snelson.

The bill was read third time and was passed by the following vote: Yeas 24, Nays 6. (Same as previous roll call)

(President in Chair)

CHANGE IN APPOINTMENTS TO CONFERENCE COMMITTEE ON HOUSE BILL 1626

The President announced the following Conference Committee, as changed, on **H.B. 1626** from that as previously appointed: Senators Mauzy, Chairman; Parker, Clower, Creighton and Kothmann.

HOUSE JOINT RESOLUTION 121 ON SECOND READING

On motion of Senator Clower and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.J.R. 121, Proposing a constitutional amendment relating to the authority of a county to perform private road work.

The resolution was read second time and was passed to third reading by the following vote: Yeas 28, Nays 2.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Mengden, Moore, Parker, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Meier, Ogg.

Absent-excused: Snelson.

HOUSE JOINT RESOLUTION 121 ON THIRD READING

Senator Clower moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.J.R. 121** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2. (Same as previous roll call)

The resolution was read third time and was passed by the following vote: Yeas 28, Nays 2. (Same as previous roll call)

HOUSE BILL 1433 ON SECOND READING

On motion of Senator McKnight and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1433, Relating to payment of certain miscellaneous claims and judgments against the state; making an appropriation.

The bill was read second time and was passed to third reading.

HOUSE BILL 1433 ON THIRD READING

Senator McKnight moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1433** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Snelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 1129 WITH HOUSE AMENDMENT

Senator Schwartz called **S.B. 1129** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Bird

Amend SENATE BILL 1129 by deleting the figure "$10,000" on page 1, line 21, and substituting in lieu thereof, the figure "$20,000".

The amendment was read.

Senator Schwartz moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 1129** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Schwartz, Chairman; Parker, Williams, Clower and Ogg.

HOUSE BILL 1382 ON SECOND READING

On motion of Senator Moore and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1382, Relating to the process of rule making by state agencies.

The bill was read second time.

Senator Jones of Harris offered the following amendment to the bill:

Amend H.B. No. 1382 by adding a new Section 3 to read as follows and by renumbering current Section 3 and subsequent sections accordingly:

SECTION 3. Section 5(g), Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), is amended to read as follows:

(g)(1) The Joint Committee on Administrative Rules Review is created. The committee is composed of five members of the house appointed by the speaker and five members of the senate appointed by the lieutenant governor.

(2) The lieutenant governor and the speaker shall make their appointments to the committee as soon as possible after the convening of each regular session of the legislature. For the legislative biennium beginning in 1979 and every alternate biennium thereafter, the lieutenant governor shall designate the chairman and the speaker shall designate the vice-chairman of the committee; and for the other bienniums the speaker shall designate the chairman and the lieutenant governor shall designate the vice-chairman.

(3) Three members of the committee from each house constitute a quorum. To be effective, any action of the committee must carry by a vote of at least three members from each house. The committee shall adopt rules for the conduct of its business.

(4) The joint committee may employ a staff and may request and utilize the assistance of the staffs of the Legislative Budget Board, the Texas Legislative Council, the Sunset Advisory Commission, the Legislative Reference Library, and the State Auditor's Office.

(5) At least 15 days prior to the filing of notice with the secretary of state as required by Subsection (a) of this section, an agency shall file with the governor and with the officer or employee with whom bills are filed in each house of the legislature a copy of each proposed rule, accompanied by the information required by Subsection (a) of this section to be submitted to the secretary of state and by supporting information explaining the evidence and methods used in preparing the fiscal and public benefit-cost notes. After being filed in each house of the legislature, a proposed rle shall be referred to standing committees in the same manner as a bill is referred, except that if rules of a house provide for consideration of an agency's budget by a committee other

than an appropriations or finance committee, the rules of an agency having a budget so considered shall be referred to the committee that considers the agency's budget. The governor may submit to the standing committees to which a rule has been referred his comments and recommendations concerning the proposed rule. A standing committee to which a proposed rule has been referred may submit the rule, accompanied by the information filed with the rule and by any comments and recommendations that have been filed by the governor and that concern the rule, to the Joint Committee on Administrative Rules Review for consideration of suspension of the rule.

(6) The joint committee may:

(A) on its own initiative or at the request of a standing committee of the house or the senate, select proposed or existing agency rules to be subjected to intensive review;

(B) seek comments of the appropriate standing committees on all rules under intensive review;

(C) transmit to an agency a statement supporting or opposing the adoption of any proposed rule or supporting or opposing the amendment or repeal, whether proposed by the agency or not, of any existing rule;

(D) encourage improvements by state agencies in their rulemaking procedures;

(E) transmit records of legislative history and intent to state agencies;

(F) recommend legislation necessary to require the amendment or repeal of existing agency rules, to make changes in the rulemaking authority of any state agency, or to change the procedures for rulemaking; and

(G) cooperate with the Legislative Budget Board and the Sunset Advisory Commission in their reviews of the performance of state agencies.

(7) The joint committee may suspend a proposed rule, other than a rule the adoption of which is required by federal law, if the rule has been submitted to the committee by a standing committee of either house of the legislature and if the joint committee finds that:

(A) promulgation of the rule is not within the legal authority of the agency;

(B) the rule is the same as or similiar to a bill that has been considered and rejected, the earlier form of a statute that has been amended, or a statute that has been repealed, by the legislature;

(C) the rule directly or indirectly contradicts legislative policy or previous legislative acts;

(D) the evidence or methods used in preparing the fiscal or public benefit-cost note for the rule are inadequate, inaccurate, or incompletely explained; or

(E) the reported economic costs or benefits of the rule were inadequately computed or are inaccurate, incompletely explained, or contrary to legislative policy.

(8) If the committee suspends a proposed rule, it shall notify the agency of its action and specify its reasons. The committee also shall report a suspension and the reasons for it to the legislature at the first regular session after the suspension or the first special session that lasts at least 20 days, whichever first occurs. An agency may not adopt a proposed rule during a time in which it is suspended.

(9) The committee may withdraw its suspension of a rule if the rule is resubmitted by the agency in a form acceptable to the committee. A suspension of a rule by the committee is temporary and must be upheld by action of the legislature to remain valid. A suspension issued by the committee at a time when the legislature is not in regular session expires unless the legislature, during the first 90 days of the next regular legislative session or during the first 20 days of the next special legislative session that lasts at least 20 days, whichever first

occurs, adopts, by a majority vote of the members of each house who are present and voting, a concurrent resolution affirming the suspension. A suspension issued by the committee during the first 80 days of a regular legislative session expires unless the legislature, during the session, adopts, by a majority vote of the members of each house who are present and voting, a concurrent resolution affirming the suspension. A suspension issued by the committee during a regular legislative session but after the 80th day of the session may not be considered by the legislature during that session but expires unless the legislature, during the first 90 days of the next regular legislative session or during the first 20 days of the next special legislative session that lasts at least 20 days, whichever first occurs, adopts, by a majority vote of the members of each house who are present and voting, a concurrent resolution affirming the suspension. If the legislature fails to act on a suspended proposed rule as provided by this subdivision, the suspension expires automatically at the end of the period provided for legislative affirmation of the suspension.

(10) After the legislature affirms a rule suspension, the agency that proposed or adopted the rule may not adopt the substance of the suspended rule in any form unless the legislature, by a majority vote of the members of each house who are present and voting, adopts a concurrent resolution approving the adoption. [~~Each house of the legislature shall adopt rules establishing a process under which the presiding officer of each house shall refer each proposed agency rule to the appropriate standing committee for review prior to adoption of the rule. When an agency files notice of a proposed rule with the secretary of state pursuant to Subsection (a) of this section, it shall also deliver a copy of the notice to the lieutenant governor and the speaker. On the vote of a majority of its members, a standing committee may transmit to the agency a statement supporting or opposing adoption of a proposed rule.~~]

The amendment was read and was adopted.

On motion of Senate Moore and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 1382 ON THIRD READING

Senator Moore moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1382** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 1.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Patman, Price, Schwartz, Short, Traeger, Truan, Williams.

Nays: Jones of Taylor.

Absent: Parker, Santiesteban, Vale.

Absent-excused: Snelson.

The bill was read third time and was passed.

BILLS ORDERED NOT PRINTED

On motion of Senator Farabee and by unanimous consent, the following bills were ordered not printed:

H.B. 1691
H.B. 179

CONSIDERATION OF NOMINEES

The Senate resumed the consideration of nominations to the Lower Colorado River Authority, with a motion by Senator Doggett to commit the nominations of Messers. Nash, Petri and Zercher to the Subcommittee on Nominations.

On motion of Senator Doggett and by unanimous consent, the motion to commit was withdrawn.

On motion of Senator Doggett, Mr. Nash and Mr. Zercher were confirmed by the following vote: Yeas 29, Nays 0, Present-Not voting 1.

Present-Not voting: McKnight.

Absent-excused: Snelson.

Senator McKnight moved the confirmation of Mr. Petri.

Senator Doggett made the substitute motion that Mr. Petri's nomination be committed to the Subcommittee on Nominations.

Question on the substitute motion, the motion prevailed by the following vote: Yeas 17, Nays 13.

Yeas: Braecklein, Brooks, Clower, Doggett, Farabee, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, Parker, Patman, Santiesteban, Schwartz, Truan, Vale, Williams.

Nays: Andujar, Blake, Creighton, Harris, Howard, McKnight, Meier, Mengden, Moore, Ogg, Price, Short, Traeger.

Absent-excused: Snelson.

HOUSE BILL 1219 ON SECOND READING

On motion of Senator Mengden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1219, Relating to the disclosure of financial information filed with the secretary of state.

The bill was read second time and was passed to third reading.

HOUSE BILL 1219 ON THIRD READING

Senator Mengden moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1219** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Snelson.

The bill was read third time and was passed.

HOUSE BILL 1845 ON SECOND READING

Senator Howard asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1845, Relating to the state treasurer's records and reports concerning time and demand deposits of state funds.

There was objection.

Senator Howard then moved to suspend the regular order of business and take up **H.B. 1845** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 2.

Yeas: Blake, Braecklein, Brooks, Clower, Doggett, Farabee, Howard, Jones of Taylor, Kothmann, Longoria, Mauzy, Meier, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Creighton, Harris.

Absent: Andujar, Jones of Harris, McKnight, Parker.

Absent-excused: Snelson.

The bill was read second time and was passed to third reading.

HOUSE BILL 1845 ON THIRD READING

Senator Howard moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1845** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Doggett, Farabee, Howard, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Creighton, Harris.

Absent: Jones of Harris.

Absent-excused: Snelson.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 2. (Same as previous roll call)

HOUSE CONCURRENT RESOLUTION 225

The President laid before the Senate the following resolution:

H.C.R. 225, Authorizing Chief Clerk to make certain corrections in **H.B. 1137.**

The resolution was read.

On motion of Senator McKnight and by unanimous consent, the resolution was considered immediately and was adopted.

HOUSE BILL 1699 ON SECOND READING

On motion of Senator Meier and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1699, Relating to establishing and implementing energy conservation standards for buildings.

The bill was read second time.

Senator Vale offered the following amendment to the bill:

Amend House Bill Number 1699 by striking all below the enacting clause and substituting in lieu thereof the following:

ARTICLE 1. BUILDING ENERGY CONSERVATION STANDARDS ACT

SECTION 1. SHORT TITLE. This Act may be cited as the Building Energy Conservation Standards Act.

SECTION 2. PURPOSE. The legislature finds that energy conservation measures are the most economical and expeditious means available for the efficient use of traditional energy resources that have been the mainstay of the Texas economy. The legislature also finds that a substantial portion of the state's energy consumption goes for the lighting, cooling, and heating of residential and commercial buildings, and that a significant portion of energy consumed in buildings can be conserved by efficient thermal and lighting design. In recognition of these findings, the legislature deems it necessary to expand various regulatory powers to insure development and adoption of thermal and lighting efficiency standards for new construction and renovation with enforcement by local political subdivisions. The legislature finds this to be the most practical and economical means of dealing with this problem and serving the public interest. Accordingly, this Act shall be liberally construed and applied to effectively promote its underlying policies and purposes.

SECTION 3. DEFINITIONS. As used in this Act:

(1) "Board" means the State Board of Control or its successor.

(2) "Exempted buildings" means:

(A) a building whose peak design rate of energy usage for heating, cooling, ventilation, and lighting is less than one watt (3.4 British thermal units) per hour per square foot of floor area for all purposes;

(B) a building that is neither mechanically heated nor cooled;

(C) a mobile home;

(D) a building owned or leased in whole or part by the United States; or

(E) a historic building.

(3) "Building envelope" means those elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.

(4) "New building" means any building on which the final design is commenced after the adoption of standards prescribed under this Act.

(5) "Renovated building" means a building undergoing alteration or addition to the building envelope, heating, ventilation, and cooling systems, water heating systems, or lighting systems.

(6) "Committee" means the Texas Building Energy Conservation Standards Advisory Committee.

SECTION 4. ADOPTION OF THERMAL AND LIGHTING EFFICIENCY STANDARDS. (a) The board shall adopt rules and regulations that establish minimum thermal and lighting standards in new and renovated buildings, and the board shall consult with the Governor's Office of Energy Resources, the Texas Energy and Natural Resources Advisory Council, and the Texas Department of Community Affairs during the adoption of these standards.

(b) No standards may become effective without the approval of the Governor's Office of Energy Resources, the Texas Energy Advisory Council, and the Texas Department of Community Affairs.

(c) Within three months after the effective date of this Act, the board shall adopt and issue energy conservation standards that all new and renovated buildings are required to meet.

(d) The standards shall:

(1) be no less stringent than and in substantial compliance with the provisions of the "Model Code for Energy Conservation in New Buildings" that was developed by the National Conference of States on Building Codes and Standards;

(2) be designed to obtain maximum cost effective energy savings consistent with protecting the public health, safety, and welfare, while minimizing the economic costs of compliance;

(3) allow the incorporation of the latest and most cost effective technologies;

(4) provide maximum flexibility for compliance by allowing the use of performance standards where feasible, as well as prescriptive standards and component performance standards; and

(5) apply only to those portions of the building envelope or systems being renovated without requiring the entire structure to comply.

(e) For renovated buildings, the standards shall apply only to those buildings determined by the local governing authority to be a renovated building.

(f) The standards shall be incorporated into and shall be known as the Texas Building Energy Conservation Code.

SECTION 5. ADVISORY COMMITTEE. (a) The Texas Building Energy Conservation Standards Advisory Committee is created.

(b) The committee is composed of five members appointed by the governor. In appointing members to the committee, the governor shall appoint at least one member from the construction industry, one member from the engineering profession, one architect, and one representative from a consumer interest group.

(c) The members of the committee shall serve for terms of two years beginning on February 1 of each odd-numbered year. The initial members of the committee shall be appointed to serve until February 1, 1981.

(d) Vacancies on the committee shall be filled in the manner provided for appointment under Subsection (b) of this section.

(e) The members of the committee are not entitled to compensation for acting as members of the committee but may be reimbursed for necessary expenses in carrying out their duties under this Act.

(f) A chairman and vice-chairman shall be elected by the members of the committee at the first meeting after all members are appointed.

(g) The committee shall meet as many times each year as necessary to fulfill their responsibilities under this Act. Meetings shall be held at a place designated by the board, and three members of the committee constitute a quorum.

(h) The committee shall review annually the Texas Building Energy Conservation Code and shall submit to the board written recommendations for additions and amendments to and revisions of the code. The committee, on request of the board, shall also advise the board on other matters relating to energy conservation in buildings.

SECTION 6. COMPLIANCE WITH FEDERAL LAW. The board shall comply with Section 305 of the Energy Conservation and Production Act, 42 U.S.C. 6801 (1976), for certification of energy conservation performance standards in new buildings.

SECTION 7. DISTRIBUTION OF CODE. The board shall prepare and distribute copies of the Texas Building Energy Conservation Code to interested persons at a reasonable cost.

SECTION 8. ENFORCEMENT OF STANDARDS. (a) The design, erection, construction, and alteration of a building or building system for which standards adopted under this Act apply shall be accomplished in a manner that will meet or exceed the standards adopted under this Act.

(b) Except for buildings owned by the state, including buildings of state-supported institutions of higher education, each city or town or county shall enforce compliance with standards for energy conservation in buildings.

(c) The board shall enforce compliance with the Texas Building Energy Conservation Code in all state buildings, including buildings of state-supported institutions of higher education.

SECTION 9. LOCAL GOVERNMENT STANDARDS. (a) Each city, town, and county may adopt building energy conservation codes that incorporate energy conservation standards for buildings and may provide for enforcement of compliance with those codes, provided each code incorporates standards that are at least as stringent as standards provided in the Texas Building Energy Conservation Code.

(b) If a city or town adopts a building energy conservation code under Subsection (a) of this section, the county in which the city or town is located may not also adopt a code that applies within the corporate limits of the city or town.

SECTION 10. Chapter 89, Acts of the 64th Legislature, Regular Session, 1975, (Article 678i, Vernon's Texas Civil Statutes) is repealed.

ARTICLE 2. SOLAR AND WIND ENERGY

SECTION 1. FINDINGS. The legislature finds and declares that:

(1) the public health, safety, and welfare of the people of the State of Texas require that an adequate supply of energy be made available to them at all times;

(2) use of solar energy is an effective and feasible means of meeting the energy needs of the people of the State of Texas and conserving our valuable fuel reserves;

(3) it is in the public interest to encourage the widespread use of solar energy and to protect and facilitate adequate access to sunlight;

(4) widespread use of solar energy will encourage the development of a competitive solar energy industry in the State of Texas that will economically benefit the state;

(5) solar energy is a nonpolluting, renewable energy resource; and

(6) it is, therefore, the policy of the State of Texas to encourage the use of solar energy.

SECTION 2. Section 3(c), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The term "public utility" or "utility," when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ("electric utilities" hereinafter), provided that generation of electricity with a solar energy system or device primarily for consumptive use and not for sale to other persons is not included;

(2)(a) the conveyance, transmission, or reception of [~~or~~] communications over a telephone system; provided that no person or corporation not otherwise a public utility within the meaning of this Act shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system; and provided further that nothing in this Act shall be construed to apply to telegraph services, services of specialized communications common carriers not providing local exchange telephone service, television stations, or radio stations, or community antenna television services;

(b) providing radio-telephone services that may be authorized under the Domestic Public Land Mobile Radio Service or Rural Radio Service rules of the Federal Communications Commission; provided, however, that radio-telephone service provided by wire-line telephone companies regulated by the Commission are excluded from the definition of radio-telephone utilities;

(3) transmitting or distributing combustible hydrocarbon natural or synthetic natural gas for sale or resale in a manner which is not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act (15 U.S.C.A., Section 717, et seq.) ("gas utilities" hereinafter) provided that the production and gathering of natural gas, the sale of natural gas in or within the vicinity of the field where produced, the distribution or sale of liquified petroleum gas, and the transportation, delivery, or sale of natural gas for fuel for irrigation wells or any other direct use in agricultural activities is not included.

(4) the transmitting, storing, distributing, selling, or furnishing of potable water to the public or for resale to the public for any use, or the collection, transportation, treatment, or disposal of sewage, or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a city, town or other political subdivision of this state. The term "public utility" or "utility" includes any municipally owned gas or electric utility, whether owned separately or in conjunction with other municipalities operated by a board of trustees which as of May 1, 1975, was not directly appointed by the governing body of the municipality, and does not include any other municipally owned utility unless otherwise provided in this Act. The term "public utility" or "utility" shall not include any person or

corporation not otherwise a public utility that furnishes the services or commodity described in any paragraph of this subsection only to itself, its employees, or tenants as an incident of such employee service or tenancy, when such service or commodity is not resold to or used by others.

SECTION 3. Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Subsections (u) through (y) to read as follows:

(u) "Solar energy" means radiant energy from the sun that may be collected and converted into useful thermal, mechanical, or electrical energy, including biomass energy that is imparted to living plants through photosynthesis.

(v) "Wind energy" means the energy available in the wind that may be captured and converted into useful thermal, mechanical, or electrical energy.

(w) "Solar energy device" means a solar or wind energy collector or solar or wind energy storage mechanism that provides for the collection, storage, or distribution of solar or wind energy for subsequent use as thermal, mechanical, or electrical energy.

(x) "Solar or wind energy collector" means any assembly, structure, or design, including passive elements, used to absorb, concentrate, convert, reflect, or otherwise capture or redirect solar or wind energy for subsequent use as thermal, mechanical, or electrical energy.

(y) "Solar or wind energy storage mechanism" means equipment, components, or elements designed and used to store for subsequent use, solar or wind energy captured by a solar or wind energy collector, either in the same form as the energy will eventually be used or in an intermediate form, including thermal, electro-chemical, chemical, electrical, or mechanical storage mechanisms.

SECTION 4. Section 38, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 38. It shall be the duty of the regulatory authority to insure that every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. Rates shall not be unreasonably preferential, prejudicial, or discriminatory, but shall be sufficient, equitable, and consistent in application to each class of consumers. Rates shall not in any way penalize a customer who uses solar or wind energy. For ratemaking purposes, the commission or railroad commission may treat two or more municipalities served by a public utility as a single class wherever the commission or railroad commission deems such treatment to be appropriate.

SECTION 5. Section 39, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 39. (a) In fixing the rates of a public utility the regulatory authority shall fix its overall revenues at a level which will permit such utility to recover its operating expenses together with a reasonable return on its invested capital.

(b) On a showing by an electric utility at a earing before a regulatory authority and a finding by the regulatory authority that the electric utility has invested in systems or devices that are designed to generate or produce energy from renewable resources, the capital costs of which, when added to the operating and maintenance costs, depreciation, and taxes, will result in a lower cost per unit of energy generated or produced over the life of the systems or devices than existing systems or devices utilizing nuclear energy, fossil fuels, or natural gas, and which systems or devices are capable of or, in fact, are generating or producing energy for commercial purposes, the regulatory authority may allow an incremental return on the invested equity portion of that investment in the systems or devices by adding an increment of from one-half percent to one percent to the rate of return permitted on the utility's investment.

The regulatory authority also may allow such higher rate of return on investments by an electric utility in experimental projects that the regulatory authority determines, after public hearing, to be reasonably designed to improve or perfect technology to generate or produce energy from renewable resources. In this subsection, "renewable resources" means nonfossil fuels and nonnuclear energy resources that are replenishable and includes solar energy, wind energy, geothermal energy, and hydroelectric energy.

SECTION 6. The Public Utility Regulatory Act, as amended (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Section 28A to read as follows:

Sec. 28A. (a) A testing or monitoring program of solar energy devices instituted by a public utility shall be instituted and carried out in compliance with rules adopted by the commission.

(b) After testing or monitoring solar energy devices, a public utility shall furnish to the commission a report of all information and data obtained from its testing and monitoring. The commission may make its own analysis of this information and data, and shall make its analysis and the data and information available for public inspection.

SECTION 7. The Energy Conservation in Buildings Act (Article 678i, Vernon's Texas Civil Statutes) is amended to read as follows:

Sec. 1. SHORT TITLE. This Act may be cited as the Energy Conservation in Buildings Act.

Sec. 2. DEFINITIONS. In this Act:

(1) "Board" means the State Board of Control.

(2) "Solar energy" means radiant energy from the sun that may be collected and converted into useful thermal, mechanical, or electrical energy, including biomass energy that is imparted to living plants through photosynthesis.

(3) "Wind energy" means the energy available in the wind which may be captured and converted into useful thermal, mechanical, or electrical energy.

(4) "Solar Energy Device" means a solar or wind energy collector or solar or wind energy storage mechanism that provides for collection, storage, or distribution of solar or wind energy for subsequent use a thermal, mechanical, or electrical energy.

(5) "Solar or wind energy collector" means any assembly, structure, or design, including passive elements, used to absorb, concentrate, convert, reflect, or otherwise capture or redirect solar or wind energy for subsequent use as thermal, mechanical, or electrical energy.

(6) "Solar or wind energy storage mechanism" means equipment, components, or elements designed and used to store for subsequent use, solar or wind energy captured by a solar or wind energy collector, either in the same form as the energy will eventually be used or in an intermediate form, including thermal, electro-chemical, chemical, electrical, or mechanical storage mechanisms.

Sec. 3 [2]. PURPOSE. The purpose of this Act is to provide for the development of improved design, lighting, insulation, and Architectural standards to promote efficient energy use in state buildings including buildings of state-supported institutions of higher education, to reduce wasteful or uneconomic consumption of energy by balancing the cost of energy procurement against the cost of energy conserving building practices to achieve the minimum lifetime cost for all new state buildings, including new buildings of state-supported institutions of higher education, measured by combined construction and operating costs, and to provide information to the public relating to energy saving uses, designs, construction methods, and techniques for all new and existing buildings.

Sec. 4 [3]. ADOPTION AND PROMULGATION OF STANDARDS FOR STATE BUILDINGS. (a) The Board [~~Within one year after the effective date of this Act, the State Building Commission~~], after consultation with the Texas [~~Governor's~~] Energy Advisory Council, shall adopt and publish energy conservation design standards for use in the construction, renovation, and repair of [~~that~~] all [~~new~~] state buildings, including buildings of state-supported institutions of higher education, and those standards must be met in all state buildings constructed, renovated, or repaired after the standards take effect [~~are required to meet~~]. These standards shall include both performance and procedural standards for maximum energy conservation allowed by the latest and most effective technology consistent with the requirements of public health and safety regulations and economic considerations.

(b) The standards shall be promulgated in terms of energy consumption allotments and shall take into consideration the various classes of building uses. Performance standards shall allow for design flexibility since only the total allotment of energy is prescribed.

(c) Procedural standards shall be directed toward specific design and building practices that produce good thermal resistance and low air leakage and toward requiring practices in the design of mechanical and electrical systems which conserve energy. The procedural standards shall address, when applicable, the following items:

(1) insulation.

(2) lighting, according to the lighting necessary for the tasks for which each area is intended to be used,

(3) ventilation,

(4) the potential use of new systems for saving energy in ventilation, climate control, and other areas, and

(5) any other item which the board [~~State Building Commission~~] deems appropriate.

Sec. 5 [4]. DESIGN STANDARDS BY OTHER ENTITIES. (a) The boards of regents and boards or governing bodies of state agencies, commissions, and institutions exempted under the State Building Construction Administration Act (Article 678f, Vernon's Texas Civil Statutes), shall adopt and publish energy conservation design standards as provided in Section 4 [~~3~~] of this Act for all [~~new~~] buildings under their authority. The standards shall be consistent with those promulgated by the board [~~State Building Commission~~] for other state buildings and be prepared in cooperation and consultation with the board [~~State Building Commission~~] and the Texas [~~Governor's~~] Energy Advisory Council.

(b) The board [~~State Building Commission~~] shall assist the boards and governing bodies of state agencies, commission, and institutions subject to the provisions of Subsection (a) of this section with the preparation of energy conservation standards by providing technical assistance and advice.

Sec. 6 [~~5~~]. TECHNICAL ASSISTANCE PROGRAM. The board [~~State Building Commission~~], after consultation with the Texas [~~Governor's~~] Energy Advisory Council and the Texas Department of Community Affairs, shall prepare model energy conservation building codes and make them available for use by cities in enacting or amending their ordinances.

To the extent possible, the board shall incorporate into the model energy conservation building codes provisions that will encourage the use of solar energy and solar energy devices.

Sec. 7 [~~6~~]. STAFF. The board [~~State Building Commission~~] may employ staff necessary to carry out the provisions of this Act.

Sec. 8 [~~7~~]. ENERGY CONSERVATION MANUAL. (a) The board [~~Within 100 days after the effective date of this Act, the State Building~~

~~Commission~~] shall produce and publish an energy conservation manual for potential use by designers, builders, and contractors of residential and nonresidential buildings. The manual shall be furnished on request at a reasonable price sufficient to cover the costs of printing and help defray research costs in establishing design standards. The manual shall contain the following:

(1) guidelines for energy conservation established by the board [~~State Building Commission~~];

(2) forms, charts, tables, and other data to assist designers, [~~and~~] builders, and contractors in meeting the guidelines;

(3) design suggestions for meeting or exceeding the guidelines; and

(4) any other information which the board [~~State Building Commission~~] finds will assist persons to become familiar with the latest technologies that they might use in meeting the guidelines.

(b) The manual shall be updated periodically as significant new energy conservation information becomes available.

(c) To the extent possible, the board shall incorporate into the manual guidelines, design suggestions, and other information that will promote the use of solar energy.

Sec. 9. CONTINUING SUPERVISION. The board shall maintain continuing supervision of the construction, renovation, and repair of all state buildings, including buildings of state-supported institutions of higher education, and after notice and hearing, the board may issue orders requiring compliance with the standards adopted under Sections 4 and 5 of this Act.

Sec. 10. SOLAR ENERGY USE. During the planning phase of any proposed construction, renovation, or repair of a state building, including a building of a state-supported institution of higher education, and before construction, renovation, or repair begins, the board or the governing board of the agency, commission, or institution responsible for the construction, renovation, or repair shall investigate and consider the economic feasibility of incorporating the use of solar energy and solar energy devices into the design of the building and the energy system that will serve the building. The board or the agency, commission, or institution shall determine economic feasibility by balancing the cost of energy procurement with conventional design practices and energy systems during the economic life of the proposed construction, renovation, or repair project against the cost of using solar energy and solar energy devices. If the use of solar energy is determined to be economically feasible, the board or the agency, commission, or institution shall incorporate the use of solar energy and solar energy devices in the plans for construction, renovation, or repair.

Sec. 11. PERFORMANCE INFORMATION. The board shall gather and analyze information relating to performance under standards established under this Act, since this Act was originally enacted for use in carrying out the provisions of this Act. The board shall also implement a continuing program for gathering and analyzing performance information for use in carrying out this Act.

SECTION 8. Title 70, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Article 4413(49) to read as follows:

Art. 4413(49). TEXAS SOLAR ENERGY DEVELOPMENT ACT OF 1979

Sec. 1. SHORT TITLE. This article may be cited as the Texas Solar Energy Development Act of 1979.

Sec. 2. DEFINITIONS. In this article:

(1) "Commission" means the Texas Solar Energy Development Commission.

(2) "Advisory council" means the Texas Solar Energy Development Advisory Council.

(3) "Solar device installer" means a person who installs, maintains, repairs, or modifies an active solar device.

(4) "Active solar device" means a system of components that are thermally isolated and that collect solar energy and transfer thermal energy to provide heating, cooling, or both, and includes air systems, forced circulation water systems, thermosiphon systems, integral collector/storage systems, radiant systems, evaporative cooling systems with collectors, regenerative rockbed cooling systems, solar-assisted absorption or other cooling systems, and solar-assisted heat pump systems.

Sec. 3. TEXAS SOLAR DEVELOPMENT COMMISSION. (a) The Texas Solar Energy Development Commission is created.

(b) The commission is composed of three members appointed by the governor with the advice and consent of the senate.

(c) The membership of the commission shall be composed of one person from the building or plumbing trades, one person who is a licensed professional engineer, and one person from the general public.

(d) The initial members of the commission shall be appointed so that one member serves a term expiring January 31, 1981, one member serves a term expiring January 31, 1983, and one member serves a term expiring January 31, 1985. Successors to the initial members of the commission shall serve for six-year terms.

(e) Each member of the commission shall qualify by taking the oath of office.

(f) The governor shall designate one member of the commission to serve as chairman, and he or she shall serve as chairman until replaced as chairman by the governor. The members of the commission may elect from their membership each year a person to serve as vice-chairman. The chairman, and the vice-chairman in the chairman's absence, shall preside at all meetings of the commission.

(g) The commission shall meet at least once each month at the call of the chairman. Additional meetings of the commission shall be called at the request of any member of the commission.

(h) A majority of the members of the commission constitutes a quorum to transact business.

(i) Each member of the commission is entitled to compensation as provided by legislative appropriation.

Sec. 4. EXECUTIVE DIRECTOR AND STAFF. (a) The commission shall employ an executive director who shall carry out the powers and duties assigned to him or her under this article and by the commission.

(b) The executive director, with the approval of the commission, may employ staff necessary to administer this article.

(c) The executive director and the employees of the commission are entitled to compensation as provided by legislative appropriation.

(d) The executive director or any employee may be dismissed by the commission.

Sec. 5. GIFTS, GRANTS. The commission may accept gifts and grants to assist it in carrying out its powers an duties under this article.

Sec. 6. ADVISORY COUNCIL. (a) The commission shall appoint the Texas Solar Energy Development Advisory Council.

(b) The advisory council shall have from 10 to 20 members who shall serve at the pleasure of the commission.

(c) The advisory council shall be composed of:

(1) persons who are actively engaged in some area of the solar energy industry;

(2) persons who are actively engaged in solar energy technology, including research and development and testing;

(3) persons who are actively engaged in business, generally, including banking, insurance, and real estate development; and

(4) persons from the general public.

Sec. 7. ADMINISTRATION AND RULES. The commission shall administer this article and may adopt rules to carry out its powers and duties under this article and standards for installation, maintenance, repair, and modification of active solar devices, and may perform any other acts or functions necessary to carry out this article.

Sec. 8. COOPERATION WITH PUBLIC AND PRIVATE ENTITIES. The commission shall cooperate with the solar energy industry, officials and organizations engaged in activities related to the solar energy industry, federal, state, and local governments, and others interested in the development of solar energy to develop solar energy and renewable energy codes, standards, tests, labeling regulations, and certification programs.

Sec. 9. MODEL CODES AND STANDARDS. The commission shall develop and make available to local governments, institutions, individuals, and businesses, model codes and standards that incorporate solar energy and renewable energy technologies, products, and techniques, for use in existing regulatory frameworks, including building codes, tax systems, local permitting and licensing requirements, warranties, guarantees, financial arrangements, and insurance programs. The commission may also provide technical assistance where appropriate to facilitate the acceptance of these codes and standards.

Sec. 10. INDUSTRY SELF-REGULATION. The commission shall work with and cooperate with the solar energy industry to develop mechanisms of industry self-regulation, including encouragement of industry organizations and development of codes and standards, including codes and standards that promote maximum performance of installed systems and components, informative and truthful advertising, and guarantees of consumer satisfaction.

Sec. 11. COOPERATION WITH THE TEXAS EMPLOYMENT COMMISSION. The commission shall cooperate with the Texas Employment Commission in developing needed vocational and technical training for those persons who will be employed in the solar energy industry.

Sec. 12. REPORTS TO THE LEGISLATURE. (a) The commission shall report annually to the governor and the legislature.

(b) The report to the governor and the legislature shall include:

(1) information concerning the solar installer licensing program administered by the commission;

(2) information concerning efforts by the commission and the solar energy industry to develop viable industry self-regulation; and

(3) recommendations for legislation needed to assure the development of a responsible solar energy industry, to encourage research, development, training, and education in a particular area of the solar energy industry, and to assist the commission in effectively carrying out its powers and duties.

Sec. 13. MARKET MONITORING. The commission shall receive complaints and shall monitor the disposition of complaints received by other state agencies and local agencies relating to the manufacture, marketing, installation, operation, and repair of solar energy systems and devices.

Sec. 14. LICENSE REQUIRED. (a) On and after September 1, 1980, before a person may install, maintain, repair, or modify an active solar device in this state, the person must be a licensed solar device installer.

(b) A person licensed under this article may not be required to have any other occupational license issued by a state agency or a local government to be a solar device installer.

(c) No license is required under this article for a person to install, maintain, repair, or modify an active solar device on his or her own principal place of residence.

Sec. 15. QUALIFICATIONS AND REQUIREMENTS FOR A LICENSE. To be a licensed solar device installer in this state, a person must be at least 18 years old, must be a resident of this state, and must have passed the examination given by the commission for the licensing of solar device installers.

Sec. 16. APPLICATION FOR LICENSE. (a) A person who desires to be a licensed solar device installer shall submit a written application to the commission at least 30 days before the date set for the beginning of the licensing examination.

(b) The application shall be in the form and shall include the information required by the commission.

Sec. 17. EXAMINATION. (a) The commission board shall prepare, administer, and grade examinations for licensing solar device installers to determine each applicant's competency to perform the actions and functions required of a solar device installer.

(b) The examination shall include coverage of any material the commission considers necessary to determine the ability of an applicant to satisfactorily perform as a solar device installer and may include both theory and performance testing.

(c) The commission shall keep the contents of the examination and the performance criteria for the examination confidential, but the commission may issue information relating to the general areas to be covered by the examination to any applicant on request.

(d) The commission shall schedule examinations at least twice a year and shall designate the locations at which the examinations will be administered.

Sec. 18. ISSUANCE OF LICENSE. The commission shall issue a license to an applicant after the applicant passes the examination and pays the license fee required in Section 19 of this article.

Sec. 19. FEES. (a) Each application for a license shall be accompanied by a fee of not more than $50 as determined by the commission to pay the costs of preparing, administering, and grading the examination.

(b) Each licensed solar device installer shall pay an annual license fee of not more than $25 as determined by the commission.

(c) If a license is lost or destroyed, a duplicate license shall be issued on payment of not more than $5 as determined by the commission and submission of an affidavit stating that the license has been lost or destroyed.

(d) Fees collected under this article shall be deposited in the state treasury in a special fund to be known as the solar energy development fund.

Sec. 20. LICENSE RENEWAL. (a) Each license issued under this article expires on the last day of the month, 12 months after it is issued or reissued.

(b) At least 30 days before the expiration of the licenses under this article, the commission shall notify each licensee by mail that the license is to expire and that the license may be renewed for one year on payment of the license fee provided in Section 19 of this article.

(c) If a licensee under this article fails to renew his or her certificate by the date of expiration, the licensee shall have 90 days following the expiration of the license in which to renew and shall pay, in addition to the renewal fee, a late license renewal fee of not more than $5 as determined by the commission. A licensee who does not renew his or her license before the expiration date in

Subsection (a) of this section may not perform acts or functions of a licensed solar device installer until the license is renewed.

(d) If a licensee under this article fails to renew his or her license before its expiration or within the 90-day period provided by Subsection (c) of this section, the licensee's license shall be void, and he or she must qualify for a new license as provided by Sections 14 through 18 of this article in order to be a licensed solar device installer.

Sec. 21. RECIPROCITY. The commission may issue a license without requiring the examination under Section 17 of this article if the applicant for the license is a licensed solar device installer in another state that has requirements for a license that are at least substantially equivalent to the requirements of this state and that extends the same privilege of reciprocity to licensed solar device installers in this state.

Sec. 22. SUSPENSION AND REVOCATION OF LICENSE. After notice and hearing, the commission may suspend for up to six months or may revoke the license of a solar device installer, if the commission finds that the licensee has:

(1) wilfully violated a provision of this article or rules adopted by the commission under this article;

(2) made a material misstatement in the application for license;

(3) obtained or attempted to obtain a license under this article by fraud or misrepresentation;

(4) wilfully failed to comply with standards adopted by the commission; or

(5) allowed the use of the license issued to him or her by another person.

Sec. 23. PENALTY; INJUNCTION. (a) A person who represents himself or herself to the public as a licensed solar device installer or who installs, maintains, repairs, or modifies an active solar device without a valid license issued under this article commits an offense. An offense under this subsection is a Class B misdemeanor.

(b) The commission may request the attorney general to seek injunctive relief to prevent any person who is not licensed under this article from representing himself or herself to the public as a licensed solar device installer or from installing, maintaining, repairing, or modifying an active solar device without a valid license issued under this article.

Sec. 24. OTHER AGENCIES. (a) The commission may request the assistance of the Texas Energy Advisory Council, the Public Utility Commission of Texas, the Governor's Office of Energy Resources, and any other state or local governmental agency in carrying out its powers and duties under this article.

(b) The Texas Energy Advisory Council, the Public Utility Commission of Texas, and any other state or local governmental agencies shall assist the commission on request, in carrying out the powers and duties of the commission under this article.

Sec. 25. EFFECTIVE DATE FOR LICENSE REQUIREMENT. No person is required to have a license under this article to act as a solar device installer until September 1, 1980.

SECTION 9. The Texas Energy Advisory Council shall develop and transmit to the governor and to the legislature not later than January 1, 1981, a detailed plan for the maximum feasible implementation of solar energy within this state by 1992.

ARTICLE 3. MISCELLANEOUS PROVISIONS

SECTION 1. This Act takes effect September 1, 1979.

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.

The amendment was read.

Senator Doggett offered the following amendment to the amendment:

Amend the floor substitute to **H.B. 1699** by adding the following Section 5(i):

(i) The Texas Building Energy Conservation Standards Advisory Committee is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the committee is abolished effective September 1, 1991.

The amendment to the amendment was read and was adopted.

The amendment as amended was then adopted.

On motion of Senator Meier and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 1699 ON THIRD READING

Senator Meier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1699** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Snelson.

The bill was read third time and was passed.

HOUSE BILL 1503 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1503, Relating to the operation and regulation of the business of title insurance; amending Chapter 9, Insurance Code, as amended, as follows: amending Article 9.36, Insurance Code, as amended; amending Article 9.39, Insurance Code, as amended; amending Article 9.42, Insurance Code, as amended; amending Article 9.43, Insurance Code, as amended; and declaring an emergency.

The bill was read second time and was passed to third reading.

HOUSE BILL 1503 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1503** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Snelson.

The bill was read third time and was passed.

SENATE BILL 712 WITH HOUSE AMENDMENTS

Senator Santiesteban called **S.B. 712** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Hendricks

Substitute the following for S.B. No. 712:

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain alcoholic beverage business entities to designate the extent of their licensed premises, have business relationships with other business entities, and change the type of license or permit held.

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

SECTION 1. Section 11.49, Alcoholic Beverage Code, is amended by amending Subsections (b) and (c) and adding Subsections (d) and (e) to read as follows:

(b) Subject to the approval of the commission or the administrator, and except as provided in Subsection (c) of this section, an applicant for a permit or license may designate a portion of the grounds, buildings, vehicles, and appurtenances to be excluded from the licensed premises. If such a designation has been made and approved as to the holder of a liense or permit authorizing the sale of alcoholic beverages at retail or as to a private club registration permit, the sharing of space, employees, business facilities, and services with another business entity (including the permittee's lessor, which, if a corporation, may be a domestic or foreign corporation, but excluding a business entity holding any type of winery permit a manufacturer's license, or a general, local, or branch distributor's license), does not constitute a subterfuge or surrender of exclusive control in violation of Section 109.53 of this code or the use or display of the license for the benefit of another in violation of Section 61.71(a)(15) of this code.

(c) An applicant for an original or renewal package store permit, wine only package store permit, local distributor's permit, or any type of wholesaler's permit may not take advantage of the right conferred by Subsection (b) of this section except as permitted in Section 11.50 or 109.53 of this code.

(d) The providing of space, employees, business facilities, or services to a package store, wine only package store, wholesaler's, or local distributor's permittee by a business entity or person who does not meet the Texas citizenship or 51 percent Texas ownership requirements of Section 109.53 of this code constitutes prima facie evidence of subterfuge under Section 109.53. Any package store, wine only package store, wholesaler's, or local distributor's permittee who is injured in his business or property by another person (other than a person in his capacity as the holder of a wine and beer retailer's permit, wine and beer retailer's off-premise permit, private club registration permit, or mixed beverage permit or any person in the capacity of lessor of the holder of such a permit) by reason of anything prohibited in this section or Section 109.53 of this code is entitled to the same remedies available to a package store permittee under Section 109.53 of this code. Except for actions brought against a person in his capacity as the holder of, or as the lessor of the holder of, a wine and beer retailer's permit, wine and beer retailer's off-premise permit, mixed

beverage permit, or private club registration permit, the statute of limitations for any action brought under this section or Section 109.53 of this code is four years unless a false affidavit has been filed with the commission in which event the statute of limitations is 10 years for all purposes.

(e) When a designation under Subsection (b) of this section is made by a wine and beer retailer or a beer retailer, selling primarily for off-premise consumption, or by a wine and beer retailer's off-premise permittee, no more than 20 percent of the retail floor and display space of the entire premises may be included in the licensed premises, and all the retail floor and display space in the licensed premises must be compact and contiguous and may not be gerrymandered. However, the retail floor and display space included in the licensed premises may be in two separate locations within the retail premises if the total retail floor and display space included in the licensed premises does not exceed 20 percent of the floor and display space of the entire premises and each of the two portions of floor and display space included in the licensed premises is itself compact and contiguous and not gerrymandered. In addition to the one or two separate locations of retail floor and display space on the premises, the licensed premises may include the cash register and check-out portions of the premises provided that (1) no alcoholic beverages are displayed in the check-out or cash register portion of the premises, and (2) the area of the check-out and cash register portions of the premises are counted towards the total of 20 percent of the retail floor and display space that may be dedicated to the sale and display of wine and beer. A storage area that is not accessible or visible to the public may be included in the licensed premises but shall not be considered retail floor and display space for purposes of this section. The commission or administrator shall adopt rules to implement this subsection and to prevent gerrymandering.

SECTION 2. Chapter 11, Alcoholic Beverage Code, is amended by adding Section 11.491 to read as follows:

Sec. 11.491. CHANGE OF LICENSE OR PERMIT. (a) Any licensee or permittee who wishes to obtain a different license or permit to replace a current one for the same location, and who is qualified to hold the license or permit desired, may obtain the different license or permit as provided by this section without having to file an original application as otherwise provided by this code.

(b) The licensee or permittee shall file with the commission an application for a change of license or permit. The application may be filed in lieu of a renewal application for the current license or permit or it may be filed before a renewal application is due.

(c) The application must be made on a form prescribed by the commission. It must show that the applicant is eligible to hold the license or permit sought. The commission shall consider and pass on the application in the same manner as it would consider and pass on a renewal application for the current license or permit of the applicant. Procedures applicable to the application for an original license or permit but not ordinarily applicable to a renewal application do not apply.

(d) The applicant shall submit with the application the fee required for the license or permit sought.

(e) If the commission or administrator finds that the applicant is eligible to hold the license or permit sought, the commission or administrator shall issue the license or permit to take effect on the expiration of the license or permit it is to replace unless the applicant has requested in the application that it take effect immediately on approval, in which case the issuance of the new license or permit cancels the existing one. The licensee or permittee is not entitled to a refund for the unexpired portion of the cancelled license or permit.

(f) An application under this section may not be filed after August 31, 1980. This section expires September 1, 1980, except that it continues in effect for the consideration and disposition of applications filed before September 1, 1980.

SECTION 3. Section 22.06(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as provided in Section 102.05 of this code and in Subsection (b) of this section, no person who holds a package store permit or owns an interest in a package store may have a direct or indirect interest in any of the following:

(1) a manufacturer's, retail dealer's on-premise, retail dealer's off-premise, or general, branch, or local distributor's license;

(2) a wine and beer retailer's, wine and beer retailer's off-premise, or mixed beverage permit; or

(3) the business of any of the permits or licenses listed in Subdivisions (1) and (2) of this subsection.

SECTION 4. Section 24.05(a), Alcoholic Beverage Code, is amended to read as follows:

(a) No person who holds a wine only package store permit or owns an interest in a wine only package store may have a direct or indirect interest in any of the following:

(1) a manufacturer's, retail dealer's on-premise, or general, branch, or local distributor's license;

(2) a wine and beer retailer's or wine and beer retailer's off-premise permit; or

(3) the business of any of the permits or licenses listed in Subdivisions (1) and (2) of this section.

SECTION 5. This Act takes effect immediately, except that Section 11.49(d), Alcoholic Beverage Code, as it applies to injury caused by a wine only package store permittee, takes effect September 1, 1980.

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 according to its provisions, and it is so enacted.

Amendment No. 2 - Lewis

Amend CSSB 712, Section 1 by:

(a) adding the number "(1)" following the letter "(b)" on Page 1, Line 10; and by adding the number "(2)" following the period after the word "premises" on Page 1, Line 14; and

(b) adding a new sentence at the end of Subsection b, page 2, line 2 to read as follows:

"This subsection shall not apply to original or renewal package store permits, wine only package store permits, local distributors' permits or any type of wholesaler's permits"; and

(c) deleting the first sentence of Subsection (d), beginning with the word "The" on page 2, line 8 and continuing through the words "Section 109.53." on page 2, lines 13 and 14; and

(d) adding the following language after the word "code" and before the word "is" in Subsection (d), Page 3, Line 1:

"for any cause of action arising after the effective date of this Act".

The amendments were read.

Senator Santiesteban moved to concur in the House amendments.

The motion prevailed.

COMMITTEE SUBSTITUTE HOUSE BILL 595 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 595, Relating to the recovery of a claim against a unit of government based on a contract.

The bill was read second time and was passed to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 595 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 595** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Snelson.

The bill was read third time and was passed.

SENATE RESOLUTION 696

The Senate resumed consideration of the following resolution:

S.R. 696, Enabling consideration of, and action on, certain specific matters which may be contained in the Conference Committee Report on **C.S.H.B. 558.**

Question - Shall the resolution be adopted?

Senator Schwartz offered the following amendment to the resolution:

Amend SR No. 696 by adding the following new item at page 36:

On page III-36, Texas Coastal and Marine Council, add the following item:

		1980	1981
9.	Contingent on final enactment of SCR No. 51, SCR No. 62, and S.R. No. 553, Sixty-sixth Legislature, R.S., the following amount is appropriated to accomplish the purpose of the Resolutions	55,000	U.B.

This change would finance the projects authorized by the Resolutions

The amendment was read and was adopted.

The resolution as amended was adopted.

HOUSE BILL 1834 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1834, Adopting the Human Resources Code, a nonsubstantive revision of the statutes relating to state programs, assistance, and services for needy persons, children, and handicapped persons.

The bill was read second time.

Senator Brooks offered the following committee amendment to the bill:

Substitute the following for Section 22.002(e) in H.B. No. 1834:

"(c) The department may accept, expend, and transfer federal and state funds appropriated for programs authorized by federal law. The department may accept, expend, and transfer funds received from a county, municipality, or public or private agency or from any other source, and the funds shall be deposited in the state treasury subject to withdrawal on order of the commissioner in accordance with the department's rules."

The committee amendment was read and was adopted.

Senator Brooks offered the following amendment to the bill:

Amend H.B. No. 1834 as follows:

(1) Insert "ARTICLE 1" immediately after the enacting clause.
(2) Insert the following after Section 4 and strike Section 5:

ARTICLE 2

SECTION 1. Section 46.003, Human Resources Code, is amended to read as follows:

Sec. 46.003. ASSIGNMENT OF RIGHT TO SUPPORT. (a) The filing of an application for or the receipt [~~An applicant for or recipient~~] of financial assistance under Chapter 31 of this code constitutes an assignment [~~shall assign~~] to the department of any rights to support from any other person which the applicant or recipient may have in his or her own behalf or for a child for whom the applicant or recipient is claiming assistance, including the right to the amount accrued at the time the application is filed or the assistance is received [~~assignment is executed~~]. An applicant's assignment under this section is valid only if the department approves the application. The department may distribute support payments or parts of payments received by it to the family for whom the payments are made or may use the payments to provide assistance and services to and on behalf of needy dependent children.

(b) Child [~~If an assignment has been made pursuant to this section, child~~] support payments for the benefit of a recipient child shall be made to the department. If a court has ordered support payments to be made to an applicant for or recipient of financial assistance [~~who has assigned support rights~~], the department may file notice of the assignment with the court ordering the payments. The notice must include:

(1) a statement that the child is an applicant for or recipient of financial assistance [~~assignment has been made~~];

(2) the name of the child and the caretaker for whom support has been ordered by the court;

(3) the style and cause number of the case in which support was ordered; and

(4) a request that the payments ordered be made to the department.

(c) On receipt of the notice and without a requirement of a hearing, the court shall order that the payments be made to the department. (V.A.C.S. Art. 695c, Secs. 18-B(c) and (d); Sec. 1, H.B. No. 468, 66th Legis., Reg. Sess., 1979.)

SECTION 2. Section 101.024, Human Resources Code, is amended to read as follows:

Sec. 101.024. VOLUNTARY COMMUNITY SERVICES PROGRAMS. (a) The committee shall disburse state funds appropriated for the purpose to local public agencies or private, nonprofit corporations that operate programs to recruit retired persons to perform volunteer community services or that operate Foster Grandparent Programs.

(b) A public agency or private, nonprofit corporation may not receive state money under this section if it is not able to qualify for [~~entitled to receive~~] federal matching money for the same purpose.

(c) The committee by rules shall establish guidelines or formulas to determine the proportion of state money distributed to each public agency or private, nonprofit corporation. The committee by rules may establish additional qualifications to receive the state money.

(d) State funds disbursed under this section may not be used to pay compensation to volunteer workers, except for participants in the Foster Grandparent Programs, or for purposes other than financing the operation or administration of the volunteer programs, but it may be used to defray expenses incurred by volunteers in the performance of volunteer work. The committee by rules may further limit the purposes for which the state money may be spent. (V.A.C.S. Art. 695k, Sec. 6a; Secs. 1, S.B. No. 1269, 66th Legis., Reg. Sess., 1979.)

SECTION 3. Chapter 81, Human Resources Code, is amended to read as follows:

CHAPTER 81. TEXAS COMMISSION FOR THE DEAF

Sec. 81.001. DEFINITION
Sec. 81.002. TEXAS COMMISSION FOR THE DEAF
Sec. 81.003. TERMS
Sec. 81.004. APPLICATION OF SUNSET ACT
Sec. 81.005. CHAIRMAN; MEETINGS; EXPENSES
Sec. 81.006. DUTIES AND POWERS
Sec. 81.007. BOARD FOR EVALUATION OF INTERPRETERS
Sec. 81.008. EXECUTIVE DIRECTOR
Sec. 81.009. EMPLOYEES
Sec. 81.010. TECHNICAL ADVISORY COUNCIL FOR PLANNING AND OPERATIONS

Sec. 81.001. DEFINITION. In this chapter, "commission" means the Texas Commission for the Deaf. (Sec. 1, S.B. No. 1157, 66th Legis., Reg. Sess., 1979.)

Sec. 81.002. TEXAS COMMISSION FOR THE DEAF. (a) The Texas Commission for the Deaf is composed of nine members appointed by the governor with the advice and consent of the senate.

(b) Three members of the commission must be deaf persons, two must be parents of deaf persons, two must be professionals serving the deaf, and two

must be persons from the general public. (Sec. 2, S.B. No. 1157, 66th Legis. Reg. Sess., 1979.)

Sec. 81.003. TERMS. Members hold office for staggered terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year. (Sec. 3, S.B. No. 1157, 66th Legis., Reg. Sess., 1979.)

Sec. 81.004. APPLICATION OF SUNSET ACT. The Texas Commission for the Deaf is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless the commission is continued in existence as provided by that Act, the commission is abolished and this chapter expires effective September 1, 1985. (Sec. 4, S.B. No. 1157, 66th Legis., Reg. Sess., 1979.)

Sec. 81.005. CHAIRMAN; MEETINGS; EXPENSES. (a) The commission shall elect a chairman from among its members. The chairman serves for a term of one year.

(b) The commission shall hold at least six meetings a year.

(c) Five members of the commission constitute a quorum for the transaction of business.

(d) Members of the commission are entitled to reimbursement for their actual and necessary expenses in attending meetings of the commission and in carrying out official duties. (Sec. 5, S.B. No. 1157, 66th Legis., Reg. Sess., 1979.)

Sec. 81.006. DUTIES AND POWERS. (a) The commission shall:

(1) develop and implement a statewide program to ensure continuity of services to the deaf;

(2) provide direct services to the deaf that have not been previously designated by legislation as the responsibility of other agencies;

(3) work to ensure more effective coordination and cooperation among public and nonprofit organizations providing social and educational services to deaf individuals;

(4) establish a registry of available interpreters for the deaf and a catalogue of resources available for the needs of the deaf, both of which it shall disseminate to interested people and update annually; and

(5) help initiate interpreter training programs in institutions of higher learning, develop guidelines for instruction to promote uniformity of signs taught within these programs, and with the assistance of the Central Education Agency develop standards for evaluation of these programs.

(b) The commission may:

(1) appoint one or more advisory committees to consult with and advise the commission and may reimburse the members of an advisory committee for the actual and necessary expenses incurred in performing duties requested by the commission;

(2) accept gifts, grants, and donations of money, personal property, or real property for use in expanding and improving services to deaf persons of this state; and

(3) adopt rules necessary to implement this chapter. (Sec. 6, S.B. No. 1157, 66th Legis., Reg. Sess., 1979.)

Sec. 81.007. BOARD FOR EVALUAT[illegible] INTERPRETERS. (a) The commission may establish a program in a[illegible] with this section for the certification of interpreters who have reached varying levels of proficiency in manual communication skills.

(b) The commission shall appoint a board of three persons to administer the certification program.

(c) Subject to approval of the commission, the board shall prescribe qualifications for each of several levels of certification based on proficiency and shall evaluate and certify interpreters using these qualifications.

(d) The commission shall use the recommendations of the board in compiling a statewide registry of interpreters by skill level.

(e) The commission may charge a reasonable fee for the administration of an examination or other requirements for certification of an applicant. (Sec. 7, S.B. No. 1157, 66th Legis., Reg. Sess., 1979.)

Sec. 81.008. EXECUTIVE DIRECTOR. (a) The commission shall appoint an executive director.

(b) In selecting an executive director, the commission shall give preference to a deaf or hard of hearing person.

(c) The executive director is responsible for carrying out policies established by the commission. The commission may not delegate responsibility for establishing policy of the agency to the executive director. (Sec. 8, S.B. No. 1157, 66th Legis., Reg. Sess., 1979.)

Sec. 81.009. EMPLOYEES. The commission may hire employees it considers necessary to carry out the purposes of this chapter. (Sec. 8, S.B. No. 1157, 66th Legis., Reg. Sess., 1979.)

Sec. 81.010. TECHNICAL ADVISORY COUNCIL FOR PLANNING AND OPERATIONS. (a) The Technical Advisory Council for Planning and Operations is established. The commissioner of education, the commissioner of public welfare, the commissioner of mental health and mental retardation, the commissioner of the Texas Rehabilitation Commission, the superintendent of the Texas School for the Deaf, the executive director of the State Commission for the Blind, and the commissioner of health, or a designee of each, shall serve as ex officio members of the council. In addition, the executive director of the Texas Commission for the Deaf shall appoint a member of the faculty of a college or university who specializes in the area of training for the deaf, and shall appoint two representatives of nonprofit organizations which provide services for the deaf to serve on the council.

(b) The members of the council appointed by the executive director of the Texas Commission for the Deaf shall serve for terms of two years. They shall receive no compensation but are entitled to be reimbursed for actual and necessary expenses incurred in performing their official duties.

(c) The executive director of the Texas Commission for the Deaf may appoint representatives of other public or private agencies to serve as advisors to the council and may authorize the reimbursement of their actual and necessary expenses incurred in performing their official duties.

(d) The council serves as an interagency planning council for the coordination of services to the deaf. The council shall assist the executive director of the Texas Commission for the Deaf and the commission in resolving the differences that arise among state-supported organizations responsible for direct extension of services to deaf individuals and in determining which agency is responsible for serving a multiply handicapped deaf child. (Sec. 11, S.B. No. 1157, 66th Legis., Reg. Sess., 1979.)

SECTION 4. Chapter 41, Human Resources Code, is amended as follows:

(1) Insert "SUBCHAPTER A. GENERAL WELFARE SERVICES" immediately following "CHAPTER 41. CHILD WELFARE SERVICES".

(2) Add the following at the end of Chapter 41:

SUBCHAPTER B. FOSTER CARE

Sec. 41.021. FOSTER CARE PAYMENTS. (a) The department may pay the cost of protective foster care for children:

(1) for whom the department has initiated a suit and has been named managing conservator by a court order issued under Article 15.02, Family Code, as amended; and

(2) who are ineligible for foster care payments under the department's aid to families with dependent children program.

(b) The department may not pay the cost of protective foster care for a child for whom the department has been named managing conservator by a court order issued solely under Article 15.02(1)(J), Family Code, as amended.

(c) Payments for protective foster care, including medical care, must be equal to payments made for similar care for a child who is eligible for the department's aid to families with dependent children program. (Sec. 1, S.B. No. 139, 66th Legis., Reg. Sess., 1979.)

Sec. 41.022. COUNTY CONTRACTS. (a) The department may contract with a county commissioners court to administer the funds authorized by this subchapter for eligible children in the county and may require county participation.

(b) The payments provided by this subchapter do not abrogate the responsibility of a county to provide child welfare services. (Sec. 2, S.B. No. 139, 66th Legis., Reg. Sess., 1979.)

Sec. 41.023. DIRECT PAYMENTS. The department may make direct payments for foster care to foster parents residing in a county with which the department does not have a contract authorized by Sec. 41.022 of this code. (Sec. 3, S.B. No. 139, 66th Legis., Reg. Sess., 1979.)

Sec. 41.024. PARENT OR GUARDIAN LIABILITY. The parent or guardian of a child is liable to the state or to the county for any payment made by the state or county for foster care of a child under this subchapter. The funds collected by the state under this section must be used by the department for child welfare services. (Sec. 4, S.B. No. 139, 66th Legis., Reg. Sess., 1979.)

Sec. 41.025. MEDICAL SERVICES LIMITATION. The department may not provide the medical care payments authorized by Section 41.021(c) of this code if:

(1) a federal law or regulation prohibits those medical payments unless medical payments are also provided for medically needy children who are not eligible for the department's aid to families with dependent children program and for whom the department is not named managing conservator; or

(2) the federal government does not fund at least 50 percent of the cost of the medical payments authorized by this subchapter. (Sec. 5, S.B. No. 139, 66th Legis., Reg. Sess., 1979.)

SECTION 5. Chapter 46, Human Resources Code, is amended by adding Section 46.007 to read as follows:

Sec. 46.007. ATTORNEYS REPRESENTING DEPARTMENT. Attorneys employed by the department may represent the department in a suit to collect child support or determine paternity brought under the authority of federal law and this chapter. At the request of the department, the attorney general may represent the department in an appeal of a suit brought under the authority of this chapter. This section does not limit the authority of the attorney general to represent the state in a proceeding. (V.A.C.S. Art. 695c, Sec. 18-B(i), as added by H.B. No. 1831, 66th Legis., Reg. Sess., 1979.)

SECTION 6. Section 33.011, Human Resources Code, is amended to read as follows:

Sec. 33.011. PROHIBITED ACTIVITIES; PENALTIES. (a) A person commits an offense if the person knowingly uses, alters, or transfers food stamp coupons or authorizations to participate in the food stamp program [~~purchase food stamp coupons~~] in any manner not authorized by law. An offense under this subsection is a Class A misdemeanor if the value of the coupons or authorization cards is less than $200 and a felony of the third degree if the value of the coupons or authorization cards is $200 or more.

(b) A person commits an offense if the person knowingly possesses food stamp coupons or authorizations to participate in the food stamp program [~~purchase food stamp coupons~~] when not authorized by law to possess them, knowingly redeems food stamp coupons when not authorized by law to redeem them, or knowingly redeems food stamp coupons for purposes not authorized by law. An offense under this subsection is a Class A misdemeanor if the value of the coupons or authorization cards is less than $200 and a felony of the third degree if the value of the coupons or cards is $200 or more.

(c) A person commits an offense if the person knowingly possesses blank authorizations to participate in the food stamp program [~~purchase food stamp coupons~~] when not authorized by law to possess them. An offense under this subsection is a felony of the third degree.

(d) When food stamp coupons or authorizations to participate in the food stamp program [~~purchase food stamp coupons~~] of various values are obtained in violation of this section pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the values aggregated in determining the grade of the offense.

(e) The department may contract with county commissioners courts to provide funds to pay for professional and support servics necessary for the enforcement of any criminal offense that involves illegally obtaining, possessing, or misusing food stamps. (V.A.C.S. Art. 695c, Sec. 7-B; Sec. 1, S.B. No. 1150, 66th Legis., Reg. Sess., 1979.)

SECTION 7. Chapter 111, Human Resources Code, is amended by adding Section 111.058 to read as follows:

Sec. 111.058. CRIMINAL HISTORY RECORD INFORMATION. The commission may obtain criminal history record information from the Board of Pardons and Paroles, Texas Department of Corrections, and the Texas Department of Public Safety if the records relate to an applicant for rehabilitation services or to a client of the agency. The Board of Pardons and Paroles, Texas Department of Corrections, and the Texas Department of Public Safety upon request shall supply the commission criminal history record information applying to applicants for rehabilitation services or clients of the commission. The commission shall treat all criminal history record information as privileged and confidential and for commission use only. (Sec. 1, S.B. No. 1255, 66th Legis., Reg. Sess., 1979.)

SECTION 8. Section 47.004, Human Resources Code, is amended to read as follows:

Sec. 47.004. FINANCIAL ASSISTANCE. (a) Adoption fees for a hard-to-place child may be waived.

(b) The adoption of a hard-to-place child may be subsidized by an amount not exceeding the amount that would be paid for foster home care for the child if not adopted. The need for the subsidy shall be determined by the department under its rules.

(c) The county may [~~shall~~] pay the subsidy if the county is responsible for the child's foster home care at the time of the adoption. The state shall pay the subsidy if at the time of the adoption the child is receiving aid under the department's aid to families with dependent children program, and the state may pay the subsidy if [~~or~~] the department is managing conservator for the child. (V.A.C.S. Art. 46b-2, Secs. 4 (part) and 5; Secs. 1 and 2, S.B. No. 196, 66th Legis., Reg. Sess., 1979.)

SECTION 9. Chapter 61, Human Resources Code, is amended by adding Section 61.047 to read as follows:

Sec. 61.047. CONTRACT WITH BIG BROTHERS/BIG SISTERS OF AMERICA. (a) The council may execute contracts with Big Brothers/Big Sisters

of America or its successor organization under which the council agrees to disburse money to the local affiliates in this state of Big Brothers/Big Sisters of America or its successor organization, and Big Brothers/Big Sisters of America or its successor organization agrees to:

(1) pair adult volunteers with children who are between the ages of 6 and 18 to engage in activities in which relationships based on friendship can develop between them;

(2) monitor the relationships between the paired adults and children to determine if meaningful relationships are developing between them that are beneficial to the children; and

(3) plan and implement other programs beneficial to the character development of the children served.

(b) Before December 31 of each even-numbered year, the council shall review and present to the legislature an evaluation of the activities for which the money disbursed under Subsection (a) of this section is used. (Sec. 1, S.B. No. 1167, 66th Legis., Reg. Sess., 1979.)

SECTION 10. Section 32.033, Human Resources Code, is amended to read as follows:

Sec. 32.033. SUBROGATION. (a) The filing of an application for or receipt of medical assistance constitutes an assignment of the applicant's or recipient's right of recovery from:

(1) personal insurance;

(2) other sources; or

(3) another person for personal injury caused by the other person's negligence or wrong.

(b) A person who applies for or receives medical assistance shall inform the department, at the time of application or at any time during eligibility and receipt of services, of any unsettled tort claim which may affect medical needs and of any private accident or sickness insurance coverage that is or may become available. A recipient shall inform the department of any injury requiring medical attention that is caused by the act or failure to act of some other person. An applicant or a recipient shall inform the department as required by this subsection within 60 days of the date the person learns of his or her insurance coverage, tort claim, or potential cause of action. An applicant or a recipient who knowingly and intentionally fails to disclose the information required by this subsection commits a Class C misdemeanor.

(c) A claim for damages for personal injury does not constitute grounds for denying or discontinuing assistance under this chapter.

(d) A separate and distinct cause of action in favor of the state is hereby created, and the department may, without written consent, take direct civil action in any court of competent jurisdiction. A suit brought under this section need not be ancillary to or dependent upon any other action.

(e) The department's right of recovery is limited to the amount of the cost of medical care services paid by the department. Other subrogation rights granted under this section are limited to the cost of the services provided.

(f) The commissioner may waive the department's right of recovery in whole or in part when the commissioner finds that enforcement would tend to defeat the purpose of public assistance.

(g) The department may designate an agent to collect funds the department has a right to recover from third parties under this section. The department shall use any funds collected to pay costs of administering the medical assistance program.

(h) The department may adopt rules for the enforcement of its right of recovery. (V.A.C.S. Art. 695j-1, Secs. 3 (part) and 11; Secs. 1 and 2, H.B. No. 1812, 66th Legis., Reg. Sess., 1979.)

SECTION 11. Sections 91.011(a), (e), and (f), Human Resources Code, are amended to read as follows:

(a) The State Commission for the Blind is composed of nine [~~six~~] members appointed by the governor with the consent of the senate. Two members must be reputable blind citizens of the state and the remaining members must be outstanding citizens of the state.

(e) The governor shall designate a member of the commission to serve as presiding officer, and the officer shall serve at the governor's pleasure. [~~The commission shall elect a presiding officer from its membership annually.~~]

(f) Five [~~Four~~] members of the commission constitute a quorum for the transaction of business. (V.A.C.S. Art. 3207a, Sec. 1; Art. 3207b (part); Sec. 1, S.B. No. 1243, 66th Legis., Reg. Sess., 1979.)

SECTION 12. Section 91.021, Human Resources Code, is amended by adding Subsection (f) to read as follows:

(f) The commission shall:

(1) provide advocacy and ombudsmanship services for visually handicapped citizens of the state;

(2) serve as an information center and referral resource for the visually handicapped;

(3) develop mechanisms and procedures that tend to assist visually handicapped individuals in bridging gaps between educational, institutional, rehabilitative, vocational, and related types of services operated by public and private nonprofit organizations throughout the state; and

(4) generally supervise, oversee, and assure the effective management and operation of a state program of purchasing goods and services manufactured by handicapped individuals according to the requirements of law and in nonprofit sheltered workshop facilities. (Sec. 2, S.B. No. 1243, 66th Legis., Reg. Sess., 1979.)

SECTION 13. Sections 93.002(a) and (b), Human Resources Code, are amended to read as follows:

(a) The Texas Committee on Purchases of Blind-made Products and Services is composed of the following members who are appointed by the governor [~~administrator of the Governor's Coordinating Office for the Visually Handicapped~~]:

(1) a private citizen conversant with the problems incidental to the employment of the blind;

(2) a representative of a sheltered workshop for the blind organized under state law;

(3) a representative of a sheltered workshop organized under state law to serve disability groups other than the blind;

(4) a representative of a volunteer organization operated primarily to serve a disability group or groups other than the blind;

(5) a representative of the department of a state-supported institution of higher education offering an advanced degree in vocational rehabilitation counseling;

(6) a representative of the department of the Central Education Agency concerned with vocational education or with special education;

(7) a representative of the State Board of Control;

(8) a representative of the State Commission for the Blind; and

(9) a representative of the Texas Department of Mental Health and Mental Retardation.

(b) Lay members of the committee serve for terms of two years expiring on January 31 of odd-numbered years. Members receive no compensation but are entitled to reimbursement by the State Commission for the Blind for expenses

actually incurred in the performance of their duties. (R.S. Art. 664-5, Sec. 2; Sec. 3, S.B. No. 1243, 66th Legis., Reg. Sess., 1979.)

SECTION 14. Section 93.010, Human Resources Code, is amended to read as follows:

Sec. 93.010. RULES. After consulting with the committee and reviewing the committee's recommendations, the State Commission for the Blind [~~Governor's Coordinating Office for the Visually Handicapped~~] may make rules necessary to implement and administer this chapter. (R.S. Art. 664-5, Sec. 10; Sec. 3, S.B. No. 1243, 66th Legis., Reg. Sess., 1979.)

SECTION 15. Subchapter D, Chapter 92, Human Resources Code, is transferred to Chapter 91, Human Resources Code, renumbered, and amended to read as follows:

SUBCHAPTER E [~~D~~]. CENTRAL MEDIA DEPOSITORY

Sec. 91.081 [~~92.051~~]. PURPOSE. (a) The purpose of this subchapter is to establish a comprehensive central state depository for braille, large print, slow speed records and machines, tape recordings and tape players, and related forms of media that will enable the Texas State Library, the Central Education Agency, the State Commission for the Blind, volunteer organizations involved in the production of braille or recorded materials for the blind, the Library of Congress, and related types of organizations to work together more closely and effectively.

(b) It is the intent of this subchapter to allow various agencies and organizations interested in or responsible for such services to work together cooperatively in one facility without requiring one central management. (R.S. Art. 5446b, Sec. 1; Sec. 4, S.B. No. 1243, 66th Legis., Reg. Sess., 1979.)

Sec. 91.082 [~~92.052~~]. ESTABLISHMENT OF CENTRAL MEDIA DEPOSITORY. (a) The Texas State Library and Archives Commission [~~Governor's Coordinating Office for the Visually Handicapped~~] shall generally supervise the establishment and operation of a central media depository in Austin to house materials and devices required by blind and visually handicapped individuals or by other individuals who are unable to use ordinary printed materials.

(b) With the approval of the library and archives commission [~~coordinating office~~], the agencies and organizations maintaining and operating [~~using or occupying space in~~] the central media depository shall develop and periodically evaluate and modify specific arrangements for administrative support, sharing of staff and equipment, and related matters involved in the operation of the program [~~facility~~]. (R.S. Art. 5446b, Secs. 2 and 3; Sec. 4, S.B. No. 1243, 66th Legis., Reg. Sess., 1979; H.B. No. 1429, 66th Legis., Reg. Sess., 1979.)

Sec. 91.083 [~~92.053~~]. ANCILLARY SERVICES. The library and archives commission [~~coordinating office~~] shall allow the central media depository to be used for the repair of special media and equipment required by individuals who are unable to use ordinary print and for research and demonstration, training, and the production of materials in special media by volunteer organizations. (R.S. Art. 5446b, Sec. 4; Sec. 4, S.B. No. 1243, 66th Legis., Reg. Sess., 1979; H.B. No. 1429, 66th Legis., Reg. Sess., 1979.)

Sec. 91.084 [~~92.054~~]. FUNDING. The cost of establishing and operating the central media depository shall be paid with:

(1) funds appropriated by the legislature for that purpose;

(2) gifts, grants, bequests, and donations received by cooperating agencies for the establishment and support of the depository;

(3) reasonable fees customarily charged for services by the agencies and organizations using or occupying the facility; and

(4) funds budgeted by the cooperating agencies and organizations for that purpose pursuant to interagency contracts and agreements. (R.S. Art. 5446b, Sec. 5.)

SECTION 16. Subchapters A, B, C, and E, Chapter 92, Human Resources Code, are repealed. (Sec. 8, S.B. No. 1243, 66th Legis., Reg. Sess., 1979.)

SECTION 17. Section 93.002, Human Resources Code, is amended to read as follows:

Sec. 93.002. TEXAS COMMITTEE ON PURCHASES OF BLIND-MADE PRODUCTS AND SERVICES. (a) The Texas Committee on Purchases of Blind-made Products and Services is composed of the following members who are appointed by the governor with the advice and consent of the senate [~~administrator of the Governor's Coordinating Office for the Visually Handicapped~~]:

(1) a private citizen conversant with the problems incidental to the employment of the blind;

(2) a representative of a sheltered workshop for the blind organized under state law;

(3) a representative of a sheltered workshop organized under state law to serve disability groups other than the blind;

(4) a representative of a volunteer organization operated primarily to serve a disability group or groups other than the blind;

(5) a representative of the department of a state-supported institution of higher education offering an advanced degree in vocational rehabilitation counseling;

(6) a representative of the Texas Rehabilitation Commission [~~department of the Central Education Agency concerned with vocational education or with special education~~];

(7) a representative of the State Board of Control;

(8) a representative of the State Commission for the Blind; [~~and~~]

(9) a representative of the Texas Department of Mental Health and Mental Retardation;

(10) a representative of private business who is knowledgeable in the activities and processes involved in the sale of goods or services to governmental entities; and

(11) a representative of a state agency or department purchasing goods or services under this section but not involved in the daily operation of the program authorized by this Chapter.

(b) Lay members of the committee serve for terms of two years expiring on January 31 of odd-numbered years. Members receive no compensation but are entitled to reimbursement by the State Commission for the Blind for expenses actually incurred in the performance of their duties.

(c) The governor [~~committee~~] shall select one of the committee members to serve as chairman [~~a presiding officer from its membership~~].

(d) A member who is unable to attend a meeting of the committee may designate a person from his or her agency or department to represent him or her at the meeting. (R.S. Art. 664-5, Sec. 2; Sec. 1, H.B. No. 2071, 66th Legis., Reg. Sess., 1979.)

SECTION 18. Section 93.003, Human Resources Code, is amended to read as follows:

Sec. 93.003. APPLICATION OF SUNSET ACT. The Texas Committee on Purchases of Blind-made Products and Services is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the committee is abolished and this chapter expires effective September 1, 1983 [~~1985~~]. (R.S. Art. 664-5, Sec. 2a; Sec. 2, H.B. No. 2071, 66th Legis., Reg. Sess., 1979.)

SECTION 19. Section 93.004, Human Resources Code, is amended to read as follows:

Sec. 93.004. [~~DETERMINATION OF~~] FAIR MARKET PRICE; PURCHASING PROCEDURES. (a) The committee shall determine the fair market price of all products and services manufactured or provided by the blind and offered for sale to the various agencies and departments of the state and its political subdivisions by a nonprofit agency for the blind organized under state law and recognized by the State Commission for the Blind as capable of contributing to the purposes of this chapter.

(b) The committee shall revise the prices periodically to reflect changing market conditions.

(c) The committee shall make rules regarding [~~specifications, time of delivery,~~] designation of a central nonprofit agency to facilitate the distribution of orders among agencies for the blind, and other procedures necessary to achieve the purposes of this chapter.

(d) Requisitions for products and services required by state agencies are processed by the State Board of Control according to rules established by the board. (R.S. Art. 664-5, Sec. 3; Sec. 3, H.B. No. 2071, 66th Legis., Reg. Sess., 1979.)

SECTION 20. Section 93.010, Human Resources Code, is amended to read as follows:

Sec. 93.010. RULES. After consulting with the committee and reviewing the committee's recommendations, the State Commission for the Blind [~~Governor's Coordinating Office for the Visually Handicapped~~] may make rules necessary to implement and administer this chapter. (R.S. Art. 664-5, Sec. 10; Sec. 8, H.B. No. 2071, 66th Legis., Reg. Sess., 1979.)

SECTION 21. Chapter 93, Human Resources Code, is amended by adding Sections 93.011, 93.012, 93.013, and 93.014 to read as follows:

Sec. 93.011. PRODUCT SPECIFICATIONS. Except as otherwise provided by this section, a product manufactured for sale through the State Board of Control to any office, department, institution, or agency of the state under this chapter shall be manufactured or produced according to specifications developed by the State Board of Control. If the State Board of Control has not adopted specifications for a particular product, the production shall be based on commercial or federal specifications in current use by industry for the manufacture of the product for sale to the state. (Sec. 4, H.B. No. 2071, 66th Legis., Reg. Sess., 1979.)

Sec. 93.012. DETERMINATIONS OF FAIR MARKET VALUE. (a) In determining the fair market value of products or services offered for sale under this chapter, the committee shall give due consideration to the following type of factors:

(1) to the extent applicable, the amounts being paid for similar articles in similar quantities by federal agencies purchasing the products or services under the authorized federal program of like effect to the state program authorized by this chapter;

(2) the amounts which private business would pay for similar products or services in similar quantities if purchasing from a reputable corporation engaged in the business of selling similar products or services;

(3) to the extent applicable, the amount paid by the state in any recent purchases of similar products or services in similar quantities, making due allowance for general inflationary or deflationary trends;

(4) the actual cost of manufacturing the product or service at a sheltered workshop offering employment services to blind or other severely handicapped individuals, with adequate weight to be given to legal and moral

imperatives to pay blind or other severely handicapped workers equitable wages; and

(5) the usual, customary, and reasonable costs of manufacturing, marketing, and distribution.

(b) The fair market value of a product or service, determined after consideration of relevant factors of the foregoing type, may not be excessive or unreasonable. (Sec. 4, H.B. No. 2071, 66th Legis., Reg. Sess., 1979.)

Sec. 93.013. EXCEPTIONS. (a) Exceptions from the operation of the mandatory provisions of Section 93.011 of this code may be made in any case where:

(1) under the rules of the State Board of Control, the product or service so produced or provided does not meet the reasonable requirements of the office, department, institution, or agency; or

(2) the requisitions made cannot be reasonably complied with through provision of blind-made products or services.

(b) Each month, the State Board of Control shall provide the committee with a list of all items purchased under the exception provided by Subsection (a) of this section. The committee shall adopt the form in which the list is to be provided and may require the list to include the date of requisition, the type of product or service requested, the reason for purchase under the exception, and any other information that the committee considers relevant to a determination of why the product or service was not purchased in accordance with Section 93.011 of this code.

(c) No office, department, institution, or agency may evade the intent of this section by slight variations from standards adopted by the State Board of Control, when the products or services produced or provided by the blind, in accordance with established standards, are reasonably adapted to the actual needs of the office, department, institution, or agency. (Sec. 6, H.B. No. 2071, 66th Legis., Reg. Sess., 1979.)

Sec. 93.014. PROCUREMENT FOR POLITICAL SUBDIVISIONS. A product manufactured for sale to a political subdivision of this state or an office or department thereof shall be manufactured or produced according to specifications developed by the purchaser. The provisions of Section 93.013 of this code shall also apply to procurements of political subdivisions, however those political subdivisions shall make the determinations regarding reasonable requirements and compliance which are required of the State Board of Control in that section. All uses of the exceptions provision shall be reported to the committee in the same manner as that provided in Section 93.013 of this code and no office or department of a political subdivision may evade the intent of this section by slight variations from specifications adopted in accordance with this section, when the products or services produced or provided in accordance with this chapter are reasonably adapted to the actual needs of that office or department. (Sec. 7, H.B. No. 2071, 66th Legis., Reg. Sess., 1979.)

Sec. 93.015. POLITICAL SUBDIVISIONS EXCLUDED. There are excluded from the application of this chapter the political subdivisions of the state that are not required by Title V of the Federal Rehabilitation Act of 1973, as amended (29 U.S. Code Section 790 through 794), to take affirmative action with respect to employment and other matters relating to handicapped individuals. Nothing in this chapter shall be construed as limiting blind or other severely handicapped individuals in their capacity to sell their products to any willing buyer. (Sec. 9, H.B. No. 2071, 66th Legis., Reg. Sess., 1979.)

SECTION 22. Each section of this article takes effect only if and when the legislation on which it is based takes effect, but not earlier than September 1, 1979.

SECTION 23. All provisions of the Code Construction Act (Article 5429b-2, Vernon's Texas Civil Statutes) apply to this article.

SECTION 24. As each section of this article takes effect, the Act or part of an Act on which it is based is repealed.

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.

The amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

RECORD OF VOTES

Senators Braecklein and Patman asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1834 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1834** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 2.

Yeas: Andujar, Blake, Brooks, Clower, Creighton, Doggett, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Braecklein, Patman.

Absent: Farabee, McKnight.

Absent-excused: Snelson.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Braecklein and Patman asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 1912 ON SECOND READING

Senator Brooks asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1912, Relating to the regulation of retail installment transactions.

There was objection.

Senator Brooks then moved to suspend the regular order of business and take up **H.B. 1912** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 2.

Yeas: Andujar, Blake, Brooks, Creighton, Doggett, Farabee, Harris, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Meier, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Braecklein, Mauzy.

Absent: Clower, Howard, McKnight, Parker.

Absent-excused: Snelson.

The bill was read second time and was passed to third reading.

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1912 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1912** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 2.

Yeas: Andujar, Blake, Brooks, Creighton, Doggett, Farabee, Harris, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Braecklein, Mauzy.

Absent: Clower, Howard, Parker.

Absent-excused: Snelson.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Mauzy and Patman asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE RULE 103 SUSPENDED

On motion of Senator Andujar and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider **S.R. 606** today.

MESSAGE FROM THE HOUSE

House Chamber
May 26, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

S.B. 104 Relating to standing to enforce the open meetings law.

S.B. 254 Relating to the offenses of arson, criminal mischief, and reckless damage or destruction of property; and declaring an emergency. With amendments)

S.B. 284 Relating to the expulsion of certain foreign students from public institutions of higher education. (With amendments)

S.B. 376 Relating to employees of adult probation offices and the establishment and funding of those offices.

S.B. 521 Relating to approval of plans for construction and maintenance of levees and other improvements. (With amendment)

S.B. 662 Relating to metropolitan rapid transit authorities and the levy, imposition, and collection of a local sales and use tax by a metropolitan rapid transit authority. (With amendment)

S.B. 844 Relating to providing uniform adult probation and supervision of persons convicted of criminal offenses; amending, Article 42.12, Code of Criminal Procedure, as amended; repealing Article 42.13, Code of Criminal Procedure; repealing Chapter 164, Acts of the 59th Legislature, Regular Session, 1965 (Article 784a, Vernon's Texas Code of Criminal Procedure); and declaring an emergency. (With amendments)

S.B. 1154 Relating to the administration, powers, duties, operation, and financing of the Clear Lake City Water Authority. (With amendment)

S.B. 1155 Relating to allocation of governmental services between certain cities and districts. (With amendment)

S.B. 1167 Relating to the authority of the Texas Youth Council to contract with and dispense money to Big Brother/Big Sisters of America.

S.B. 1249 Relating to the regulation of the sales, servicing, installation, and maintenance of fire and burglar alarms and detection devices; changing the penalties.

S.B. 1273 Relating to the authority of certain cities to annex a municipal utility district. (With amendment)

H.B. 454, A bill to be entitled An Act relating to longevity pay for certain state employees.

H.J.R. 86, A joint resolution proposing a constitutional amendment relating to the budget execution powers of the governor and the power to veto or reduce items of appropriation.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 164 adopted by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 2244 by a vote of 76 Ayes, 57 Noes, 1 Present-Not Voting.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 938 by a non record vote.

All necessary rules suspended, and the House concurred in Senate Amendments to House Bill No. 15 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 793 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 962 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1109 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1146 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 825 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1831 by a non record vote.

All necessary rules suspended, and the Conference Committee Report on House Bill No. 2096 adopted by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 546 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1689 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 915 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 540 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 42 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 544 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 2071 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1016 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1811 by a non record vote.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 232.

House Conferees: Cain - Chairman; Messer, Watson, Donaldson, McFarland.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 384.

House Conferees: Lewis - Chairman; Ezzell, Bode, Jackson, Evans.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 482.

House Conferees: Lewis - Chairman; Ezzell, Bode, Jackson, Evans.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 1129.

House Conferees: Benedict - Chairman; G. Green, Whitmore, Criss, Blythe.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 909.

House Conferees: Cain - Chairman; Messer, Watson, Donaldson, McFarland.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 797.

House Conferees: Laney - Chairman; Evans, Bode, Cary, Brown.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 1168.

House Conferees: Semos - Chairman; Bird, Hill of Dallas, Cain, Maloney.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 1169.

House Conferees: Semos - Chairman; Bird, Hill of Dallas, Cain, Maloney.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 1170.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 916 by a non record vote.

House Conferees: Semos - Chairman; Bird, Hill of Dallas, Cain, Maloney.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 1171.

House Conferees: Semos - Chairman; Bird, Hill of Dallas, Cain, Maloney.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 276.

House Conferees: Ceverha - Chairman; Evans, Laney, Hall, Lalor, Bode.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 1268.

House Conferees: Rangel - Chairman; Denton, Chavez, T. Garcia, Bryant.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 402.

House Conferees: Uribe - Chairman; Massey, Craddick, Peveto, Harrison.

The House refused to concur in Senate amendments to House Bill No. 442 and has requested the appointment of a Conference Committee to consider the differences between the two Houses.

House Conferees: Willis - Chairman; Garcia of Bexar, McFarland, Evans, Lyons.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 31 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1872 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1610 by a non record vote.

All necessary rules suspended,and the House concurred in Senate amendments to House Bill No. 1673 by a non record vote.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.C.R. 50	**S.C.R. 98**	**S.J.R. 35**	**S.B. 49**
S.B. 648	**S.B. 867**	**S.B. 1054**	
S.B. 74	**S.B. 685**	**S.B. 869**	**S.B. 1101**
S.B. 93	**S.B. 733**	**S.B. 878**	**S.B. 1105**

S.B. 127 (Signed subject to Sec. 49a, Article III, Constitution of State of Texas)

S.B. 746	**S.B. 883**	**S.B. 1130**	
S.B. 171	**S.B. 764**	**S.B. 885**	**S.B. 1188**
S.B. 196	**S.B. 772**	**S.B. 886**	**S.B. 1195**
S.B. 210	**S.B. 773**	**S.B. 893**	**S.B. 1196**
S.B. 233	**S.B. 777**	**S.B. 903**	**S.B. 1228**
S.B. 313	**S.B. 785**	**S.B. 924**	**S.B. 1231**
S.B. 335	**S.B. 807**	**S.B. 930**	**S.B. 1242**
S.B. 423	**S.B. 824**	**S.B. 956**	**S.B. 1247**
S.B. 429	**S.B. 825**	**S.B. 985**	**S.B. 1256**
S.B. 465	**S.B. 846**	**S.B. 1011**	**S.B. 1260**
S.B. 517	**S.B. 849**	**S.B. 1017**	**S.B. 1262**
S.B. 532	**S.B. 854**	**S.B. 1046**	**S.B. 1271**
S.B. 546	**S.B. 855**	**S.B. 1051**	**S.B. 1299**
S.B. 582	**S.B. 856**	**S.B. 1053**	**S.B. 1318**
S.B. 615	**S.B. 861**	**S.B. 1054**	
S.B. 648			
H.C.R. 54	**H.B. 38**	**H.B. 1228**	**H.B. 2008**
H.C.R. 127	**H.B. 41**	**H.B. 1323**	**H.B. 2091**
H.C.R. 140	**H.B. 233**	**H.B. 1429**	**H.B. 2118**
H.C.R. 141	**H.B. 452**	**H.B. 1469**	**H.B. 2168**
H.C.R. 144	**H.B. 467**	**H.B. 1484**	**H.B. 2171**
H.C.R. 153	**H.B. 590**	**H.B. 1628**	**H.B. 2173**
H.C.R. 174	**H.B. 635**	**H.B. 1647**	**H.B. 2174**
H.C.R. 191	**H.B. 679**	**H.B. 1658**	**H.B. 2176**
H.C.R. 220	**H.B. 711**	**H.B. 1677**	**H.B. 2182**
H.C.R. 221	**H.B. 848**	**H.B. 1740**	**H.B. 2204**
H.C.R. 222	**H.B. 882**	**H.B. 1772**	**H.B. 2222**
	H.B. 956	**H.B. 1812**	**H.B. 2223**
	H.B. 961	**H.B. 1905**	**H.B. 2241**
	H.B. 1030	**H.B. 1921**	
	H.B. 1042	**H.B. 1926**	
	H.B. 1056	**H.B. 1969**	
	H.B. 1082	**H.B. 1974**	
	H.B. 1150	**H.B. 1986**	
	H.B. 1168	**H.B. 1989**	
	H.B. 1176		

SENATE CONCURRENT RESOLUTION 103

Senator Farabee offered the following resolution:

S.C.R. 103, Creating the Texas Workers' Compensation Advisory Committee.

FARABEE
MAUZY

The resolution was read.

On motion of Senator Farabee and by unanimous consent, the resolution was considered immediately and was adopted.

RECORD OF VOTE

Senator Doggett asked to be recorded as voting "Nay" on the adoption of the resolution.

HOUSE BILL 940 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 940** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 21, Nays 5.

Yeas: Braecklein, Brooks, Clower, Creighton, Farabee, Harris, Howard, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Traeger, Vale, Williams.

Nays: Blake, Doggett, Patman, Schwartz, Truan.

Absent: Andujar, Jones of Harris, Jones of Taylor, Parker.

Absent-excused: Snelson.

The bill was read third time.

Question - Shall the bill be finally passed?

SENATE RULE 103 SUSPENDED

On motion of Senator Jones of Harris and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider the following bills and resolutions today:

H.B. 165
H.B. 179
H.B. 2121
H.B. 1691
H.B. 1775
H.B. 1799
S.R. 692
S.R. 693
H.C.R. 98
H.C.R. 183

HOUSE BILL AND RESOLUTION ON FIRST READING

The following bill and resolution received from the House were read the first time and referred to the Committee indicated:

H.J.R. 86, To Committee on State Affairs.
H.B. 454, To Committee on Administration.

SENATE RULE 103 SUSPENDED

On motion of Senator Blake and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider **H.B. 454** today.

SENATE RULES SUSPENDED

Senator Moore moved that Senate Rules 103 and 74 be suspended as they relate to **H.J.R. 86.**

The motion prevailed by the following vote: Yeas 28, Nays 1.

Yeas: Andujar, Blake, Braecklein, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Brooks.

Absent: McKnight.

Absent-excused: Snelson.

CONFERENCE COMMITTEE REPORT SENATE BILL 1268

Senator Truan submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1268** 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.

TRUAN
KOTHMANN
PARKER
CLOWER
WILLIAMS
On the part of the Senate

RANGEL
DENTON
GARCIA
CHAVEZ
BRYANT
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the tax rate of the Willacy County Hospital District; amending Subsection (b), Section 3, Chapter 323, Acts of the 62nd Legislature, Regular Session, 1971.

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

SECTION 1. Subsection (b) of Section 3, Chapter 323, Acts of the 62nd Legislature, Regular Session, 1971, is amended to read as follows:

"(b) At the time of the election to create the district and to elect directors, there shall be submitted to the legally qualified taxpaying electors of the area of the proposed district the proposition of whether the hospital district shall be created with the authority to levy annual taxes at a rate as follows:

"(1) Six cents on the One Hundred Dollar ($100) valuation of all taxable property situated within the district, subject to hospital district taxation, for a period not to exceed four years, for the purpose of purchase, construction, acquisition, repair, or renovation of a hospital building within the district and providing facilities therein. The board may use the proceeds of this tax for the paying of the interest on and the creating of a sinking fund for bonds issued under the provisions of this Act, and for the purpose of paying off warrants, bonds or other obligations of the district incurred in connection with the construction and acquisition of facilities and equipment under the purposes of this Act.

"(2) Two cents on the One Hundred Dollar ($100) valuation of taxable property situated within the district subject to hospital district taxation for the purpose of meeting the requirements of the district's maintenance and operation expenses, and the district's expenses in connection with the care of the indigent, provided, however, this rate of two cents on the One Hundred Dollar ($100) valuation of taxable property situated within the district for the purpose of meeting the requirements of the district's maintenance and operation expenses, and the district's expenses in connection with the care of the indigent, may be raised to a rate not to exceed eight [~~four~~] cents on the One Hundred Dollar ($100) valuation upon the approval of a [~~two thirds (2/3)~~] majority of the qualified [~~taxpaying~~] electors in the district voting in an election for this purpose, called and held by the board of directors of the district after giving notice of such election in a newspaper or newspapers which individually or collectively provide general circulation in the district one time at least sixty days prior to the date of election. The form of ballot used shall be in conformity with Sections 61, 62, and 63, Texas Election Code, as amended (Articles 6.05, 6.06, and 6.07, Vernon's Texas Election Code), so that ballots may be cast 'FOR' or 'AGAINST' the following proposition: 'The increase of the maximum tax rate of the Willacy County Hospital District for maintenance and operation expenses and indigent care to eight cents on the One Hundred Dollar ($100) valuation of property subject to hospital district taxation.' The board shall canvass the returns and declare the results.

"(3) The form of ballot used in the election for the creation of the district shall be in conformity with Sections 61 through 63, Texas Election Code, as amended (Articles 6.05-6.07, Vernon's Texas Election Code), so that ballots may be cast 'FOR' or 'AGAINST' the following ballot proposition: 'The creation of Willacy County Hospital District, providing for the levy of a tax not to exceed six cents on each $100 valuation for a period of four years for construction and equipment and a tax of two cents per $100 valuation for maintenance and operation.'

"(4) Within 10 days after such election is held, the Commissioners Court of Willacy County shall convene and canvass the returns of the election, and if a majority of the qualified taxpaying electors voting at said election vote in favor of the proposition, they shall so find and declare the hospital district established and created."

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.

The Conference Committee Report was read and filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT SENATE BILL 124

Senator Doggett submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 124** 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.

DOGGETT
JONES OF HARRIS
TRUAN
MAUZY
KOTHMANN
On the part of the Senate

SHARP
CRISS
HILL
BODE
GIBSON
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to a minimum and maximum age for employment, to mandatory retirement age for public employees, and to activities of certain judges after retirement; and pertaining to causes of actions by violations of this Act and Article 4419(e); deferring application of this Act to institutions of higher

education until July 1, 1980; amending Section 2, Chapter 327, Acts of the 58th Legislature, 1963 (Article 6252-14, Vernon's Texas Civil Statutes), and Section 13.903, Texas Education Code.

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

SECTION 1. Section 2, Chapter 327, Acts of the 58th Legislature, 1963 (Article 6252-14, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2. No agency, board, commission, department, or institution of the government of the State of Texas, nor any political subdivision of the State of Texas, shall establish a maximum age under 70 [~~sixty-five (65)~~] years nor a minimum age over 18 [~~twenty-one (21)~~] years for employment, nor shall any person who is a citizen of this State be denied employment by any such agency, board, commission, department or institution or any political subdivision of the State of Texas solely because of age; provided, however, nothing in this Act shall be construed to prevent the imposition of minimum and maximum age restrictions for law enforcement peace officers, or for fire fighters, [~~provided, further, that the provisions of this Act shall not apply to institutions of higher education with established retirement programs,~~] where the head of the Department determines that substantially all such employees above or below the ages adopted would be unable to perform or continue to perform safely and efficiently the duties of their particular jobs.

SECTION 2. Section 13.903, Texas Education Code, is amended to read as follows:

"Section 12.903, Texas Education Code, is amended to read as follows:

"Section 13.903. Uniform Retirement Age

"The board of trustees of each public school district in Texas shall have full authority to establish, in conformity with Chapter 327, Acts of the 58th Legislature, 1963, as amended (Article 6252-14, Vernon's Texas Civil Statutes), a uniform retirement age for its professional and supportive personnel [~~and notwithstanding any provisions to the contrary~~]. No district shall be required to retain any person in its employment after an employee [~~he~~] reaches such prescribed age."

SECTION 3. A mandatory retirement age for public employees that is in effect on the effective date of this Act and that violates this Act is void.

SECTION 4. The provisions of this Act shall not apply to State institutions of higher education until July 1, 1980.

SECTION 5. Section 7, Chapter 99, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 6228b, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 7. A judge who has retired under this Act and has elected as provided by this section to continue as a judicial officer may not appear and plead as an attorney at law in any court in this State during the time the judge is receiving retirement pay [~~During the time judges who have retired under the provisions of the Act are receiving retirement pay they shall not be allowed to appear and plead as attorneys at law in any court in this State~~]. Any person who has retired under the provisions of this Judicial Retirement Act may elect in writing addressed to the Chief Justice of the Supreme Court within ninety (90) days after such retirement to continue as a judicial officer, in which instance they shall, with their own consent, to each assignment, be subject to assignment by the Chief Justice of the Supreme Court to sit in any court of this State of the same dignity, or lesser, as that from which they retired, and if in a District Court, under the same rules as provided by the present Administrative Judicial Act, and while so assigned, shall have all the powers of judges thereof. Any

district judge or appellate judge who has retired under the provisions of this Judicial Retirement Act and has elected to continue as a judicial officer may sit as a Commissioner of the Court of Criminal Appeals, if designated and appointed by the Presiding Judge of the Court of Criminal Appeals, with his own consent to each designation and appointment. While assigned to said court, or serving as a Commissioner to the Court of Criminal Appeals, such judges shall be paid a retirement allowance equal to the salary of judges of said court, in lieu of the retirement allowance otherwise provided in this Act. No person who has heretofore retired under the provisions of this Judicial Retirement Act shall be considered to have been a judicial officer of this State after such retirement, unless such person has accepted an assignment by the Chief Justice to sit in a court of this State.

SECTION 6. Section 5 of this Act takes effect September 1, 1979.

SECTION 7. Section 5 of this Act applies to only those retirement payments that become due after its effective date and does not permit a person to receive retirement payments for a period during which the person was made ineligible for the payments by prior law.

SECTION 8. An individual aggrieved by conduct in violation of this Act or Article 4419c, Vernon's Texas Civil Statutes, may file a suit against the appropriate employer in a court of competent jurisdiction for compensatory damages or appropriate equitable relief. The court shall also award the prevailing party, if other than an employer, interest of 10 percent per year on damages proved, attorney's fees reasonable in relation to the amount of work expended, and court costs. A public employer is liable for costs and attorney's fees to the same extent as a private person.

SECTION 9. 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.

The Conference Committee Report was read and filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT SENATE BILL 1171

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1171** 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.

MAUZY
PARKER
KOTHMANN
TRUAN
On the part of the Senate

SEMOS
MALONEY
HILL
CAIN
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to creation of the County Criminal Court No. 8 of Dallas County.

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

SECTION 1. CREATION. There is created a court to be held in Dallas County to be known and designated as "County Criminal Court No. 8 of Dallas County, Texas."

SECTION 2. JURISDICTION. The County Criminal Court No. 8 shall have and is vested with concurrent jurisdiction within the county of all criminal matters and causes, original and appellate, that is now vested in the county courts having jurisdiction in civil and criminal cases under the constitution and laws of Texas.

SECTION 3. WRIT POWER. The County Criminal Court No. 8, or the judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases where the offense charged is within the jurisdiction of the court or any court or tribunal inferior to the court and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts throughout the state.

SECTION 4. TERMS. The terms of the County Criminal Court No. 8 and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms shall be held not less than four times each year and the Commissioners Court of Dallas County shall fix the times at which the court shall hold its terms until the same may be changed according to law.

SECTION 5. JUDGE. (a) No person is eligible for judge of the County Criminal Court No. 8 unless the person is a citizen of the United States and of this state who shall have been a practicing lawyer of this state or a judge of a court in this state for four years next preceding the appointment or election and who shall have resided in the county of Dallas for two years next preceding the appointment or election.

(b) At the primaries and general election in 1980, there shall be elected by the qualified voters of Dallas County a judge of the County Criminal Court No. 8 for a two-year term beginning on January 1, 1981. At the general election in 1982, the judge shall be elected by the qualified voters of the county for a four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) A vacancy in the office shall be filled by appointment by the Commissioners Court of Dallas County, and the appointee shall hold office until the next general election and until his or her successor is duly elected and qualified.

SECTION 6. BOND AND OATH. The judge of the County Criminal Court No. 8 shall execute a bond and take the oath of office as required by the law relating to county judges.

SECTION 7. SPECIAL JUDGE. A special judge of the County Criminal Court No. 8 may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

SECTION 8. COURT OFFICIALS AND SEAL. The county clerk of Dallas County shall be the clerk of the County Criminal Court No. 8. The seal of the court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Eight, Dallas County, Texas." The sheriff of Dallas County shall in person or by deputy attend the court when required by the judge. The judge of the County Criminal Court No. 8 shall have an administrative assistant to aid the judge in the performance of his or her duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

SECTION 9. FEES AND COMPENSATION. The judge of the County Criminal Court No. 8 shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by the judge monthly into the county treasury. The judge of the court shall receive a salary as fixed by the commissioners court at an amount that is at least equal to the sum that is $1,000 less per annum than the total annual salary, including supplements, received by judges of the district courts in Dallas County, which shall be paid in 12 equal monthly installments out of the county treasury by the commissioners court. The judge shall devote his or her entire time to the duties of the office and shall not engage in the practice of the law while in office.

SECTION 10. REMOVAL. The judge of the County Criminal Court No. 8 may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

SECTION 11. COURT REPORTER. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court No. 8 shall appoint an official court reporter, who shall have the qualifications provided by law, shall be a sworn officer of the court, and shall hold the office at the pleasure of the court. The provisions of the general laws of Texas relating to the appointment of official court reporters for the district courts shall apply in all provisions, insofar as they are applicable, to the official court reporter herein authorized to be appointed. The reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are provided for the official court reporters of district courts of this state and shall be governed by any other laws covering the official court reporters of the district courts of this state. The official court reporter of this court shall not be required to take testimony in cases where neither party litigant nor the judge demands it. Where the testimony is taken by the reporter, a fee of $3 shall be taxed by the clerk as costs in the case, the $3, when collected, to be paid into the county treasury of Dallas County.

SECTION 12. TRANSFER OF CASES. As soon as practicable after this Act takes effect, the clerk of the County Criminal Courts of Dallas County may transfer to the docket of the County Criminal Court No. 8 any of the criminal cases then pending in those courts, and thereafter the judge of any of those courts may in the judge's discretion transfer any cause or causes that may at any time be pending in his or her court to the other courts by an order or orders entered in the minutes of that judge's court, and the judg of the court to which such transfer or transfers are made shall dispose of the cause or causes in the same manner as if the cause or causes were originally instituted in his or her court.

SECTION 13. EXCHANGE OF BENCHES. The judges of the County Criminal Courts of Dallas County, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

SECTION 14. EFFECTIVE DATES. Except as provided by Section 5(b), this Act takes effect on January 1, 1981.

SECTION 15. EMERGENCY. 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.

The Conference Committee Report was read and filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT SENATE BILL 1170

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1170** 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.

MAUZY
PARKER
KOTHMANN
TRUAN
On the part of the Senate

SEMOS
MALONEY
HILL
CAIN
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to creation of the County Criminal Court No. 9 of Dallas County.

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

SECTION 1. CREATION. There is created a court to be held in Dallas County to be known and designated as "County Criminal Court No. 9 of Dallas County, Texas."

SECTION 2. JURISDICTION. The County Criminal Court No. 9 shall have and is vested with concurrent jurisdiction within the county of all criminal matters and causes, original and appellate, that is now vested in the county courts having jurisdiction in civil and criminal cases under the constitution and laws of Texas.

SECTION 3. WRIT POWER. The County Criminal Court No. 9, or the judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases where the offense charged is within the jurisdiction of the court or any court or tribunal inferior to the court and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts throughout the state.

SECTION 4. TERMS. The terms of the County Criminal Court No. 9 and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms shall be held not less than four times each year and the Commissioners Court of Dallas County shall fix the times at which the court shall hold its terms until the same may be changed according to law.

SECTION 5. JUDGE. (a) No person is eligible for judge of the County Criminal Court No. 9 unless the person is a citizen of the United States and of this state who shall have been a practicing lawyer of this state or a judge of a court in this state for four years next preceding the appointment or election and who shall have resided in the county of Dallas for two years next preceding the appointment or election.

(b) At the primaries and general election in 1980, there shall be elected by the qualified voters of Dallas County a judge of the County Criminal Court No. 9 for a two-year term beginning on January 1, 1981. At the general election in 1982, the judge shall be elected by the qualified voters of the county for a four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) A vacancy in the office shall be filled by appointment by the Commissioners Court of Dallas County, and the appointee shall hold office until the next general election and until his or her successor is duly elected and qualified.

SECTION 6. BOND AND OATH. The judge of the County Criminal Court No. 9 shall execute a bond and take the oath of office as required by the law relating to county judges.

SECTION 7. SPECIAL JUDGE. A special judge of the County Criminal Court No. 9 may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

SECTION 8. COURT OFFICIALS AND SEAL. The county clerk of Dallas County shall be the clerk of the County Criminal Court No. 9. The seal of the court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Nine, Dallas County, Texas." The sheriff of Dallas County shall in person or by deputy attend the court when required by the judge. The judge of the County Criminal Court No. 9 shall have an administrative assistant to aid the judge in the performance of his or her duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

SECTION 9. FEES AND COMPENSATION. The judge of the County Criminal Court No. 9 shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by the judge monthly into the county treasury. The judge of the court shall receive a salary as fixed by the commissioners court at an amount that is at least equal to the sum that is $1,000 less per annum than the total annual salary, including supplements, received by judges of the district courts in Dallas County, which shall be paid in 12 equal monthly installments out of the county treasury by the commissioners court. The judge shall devote his or her entire time to the duties of the office and shall not engage in the practice of the law while in office.

SECTION 10. REMOVAL. The judge of the County Criminal Court No. 9 may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

SECTION 11. COURT REPORTER. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court No. 9 shall appoint an official court reporter, who shall have the qualifications provided by law, shall be a sworn officer of the court, and shall hold the office at the pleasure of the court. The provisions of the general laws of Texas relating to the appointment of official court reporters for the district courts shall apply in all provisions, insofar as they are applicable, to the official court reporter herein authorized to be appointed. The reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are provided for the official court reporters of district courts of this state and shall be governed by any other laws covering the official court reporters of the district courts of this state. The official court reporter of this court shall not be required to take testimony in cases where neither party litigant nor the judge demands it. Where the testimony is taken by the reporter, a fee of $3 shall be taxed by the clerk as costs in the case, the $3, when collected, to be paid into the county treasury of Dallas County.

SECTION 12. TRANSFER OF CASES. As soon as practicable after this Act takes effect, the clerk of the County Criminal Courts of Dallas County may transfer to the docket of the County Criminal Court No. 9 any of the criminal cases then pending in those courts, and thereafter the judge of any of those courts may in the judge's discretion transfer any cause or causes that may at any time be pending in his or her court to the other courts by an order or orders entered in the minutes of that judge's court, and the judge of the court to which such transfer or transfers are made shall dispose of the cause or causes in the same manner as if the cause or causes were originally instituted in his or her court.

SECTION 13. EXCHANGE OF BENCHES. The judges of the County Criminal Courts of Dallas County, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

SECTION 14. EFFECTIVE DATES. Except as provided by Section 5(b), this Act takes effect on January 1, 1981.

SECTION 15. EMERGENCY. 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.

The Conference Committee Report was read and filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT SENATE BILL 1168

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1168** 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.

MAUZY
PARKER
KOTHMANN
TRUAN
On the part of the Senate

SEMOS
MALONEY
HILL
CAIN
On the part of the House

Substitute the following for S.B. No. 1168:

A BILL TO BE ENTITLED
AN ACT

relating to creation of the County Criminal Court of Appeals No. 2 of Dallas County.

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

SECTION 1. CREATION. There is created a court to be held in Dallas County to be called County Criminal Court of Appeals No. 2 of Dallas County, Texas.

SECTION 2. JURISDICTION. The County Criminal Court of Appeals No. 2 shall have and is vested with concurrent jurisdiction within the county of all appeals from criminal convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Dallas County in the justice courts and municipal courts in the county, which jurisdiction is concurrent with the jurisdiction of the County Criminal Court of Appeals of Dallas County. The County Criminal Court of Appeals No. 2 shall have and is vested with concurrent jurisdiction within the county of all criminal matters and causes, original and appellate, that is now vested in the county courts having jurisdiction in civil and criminal cases under the constitution and laws of Texas.

SECTION 3. WRIT POWER. The County Criminal Court of Appeals No. 2, or the judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases where the offense charged is within the jurisdiction of the court or any court or tribunal inferior to the court and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts throughout the state.

SECTION 4. TERMS. The terms of the County Criminal Court of Appeals No. 2 and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms shall be held not less than four times each year and the Commissioners Court of Dallas County shall fix the times at which the court shall hold its terms until the same may be changed according to law.

SECTION 5. JUDGE. (a) No person is eligible for judge of the County Criminal Court of Appeals No. 2 unless the person is a citizen of the United States and of this state who shall have been a practicing lawyer of this state or a judge of a court in this state for four years next preceding the appointment or election and who shall have resided in the County of Dallas for two years next preceding the appointment or election.

(b) At the primaries and general election in 1980, there shall be elected by the qualified voters of Dallas County a judge of the County Criminal Court of Appeals No. 2 for a two-year term beginning on January 1, 1981. At the general election in 1982, the judge shall be elected by the qualified voters of the county for a four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) A vacancy in the office shall be filled by appointment by the Commissioners Court of Dallas County, and the appointee shall hold office until the next general election and until his or her successor is duly elected and qualified.

SECTION 6. BOND AND OATH. The judge of the County Criminal Court of Appeals No. 2 shall execute a bond and take the oath of office as required by the law relating to county judges.

SECTION 7. SPECIAL JUDGE. A special judge of the County Criminal Court of Appeals No. 2 may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

SECTION 8. COURT OFFICIALS AND SEAL. The county clerk of Dallas County shall be the clerk of the County Criminal Court of Appeals No. 2. The seal of the court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court of Appeals No. 2 of Dallas County, Texas." The sheriff of Dallas County shall in person or by deputy attend the court when required by the judge. The judge of the County Criminal Court of Appeals No. 2 shall have an administrative assistant to aid the judge in the performance of his or her duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

SECTION 9. FEES AND COMPENSATION. The judge of the County Criminal Court of Appeals No. 2 shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by the judge monthly into the county treasury. The judge of the court shall receive a salary as fixed by the commissioners court at an amount that is at least equal to the sum that is $1,000 less per annum than the total annual salary, including supplements, received by judges of the district courts in Dallas County, which shall be paid in 12 equal monthly installments out of the county treasury by the commissioners court. The judge shall devote his or her entire time to the duties of the office and shall not engage in the practice of the law while in office.

SECTION 10. REMOVAL. The judge of the County Criminal Court of Appeals No. 2 may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

SECTION 11. COURT REPORTER. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court of Appeals No. 2 shall appoint an official court reporter, who shall have the qualifications provided by law, shall be a sworn officer of the court, and shall hold the office at the pleasure of the court. The provisions of the general laws of Texas relating to the appointment of official court reporters for the district courts shall apply in all provisions, insofar as they are applicable, to the official court reporter herein authorized to be appointed. The reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are provided for the official court

reporters of district courts of this state and shall be governed by any other laws covering the official court reporters of the district courts of this state. The official court reporter of this court shall not be required to take testimony in cases where neither party litigant nor the judge demands it. Where the testimony is taken by the reporter, a fee of $3 shall be taxed by the clerk as costs in the case, the $3, when collected, to be paid into the county treasury of Dallas County.

SECTION 12. TRANSFER OF CASES. (a) As soon as practicable after this Act takes effect, the clerk of the county criminal courts in Dallas County may transfer to the docket of the County Criminal Court of Appeals No. 2 any of the criminal cases then pending in the County Criminal Court of Appeals of Dallas County, and thereafter the judge of either of those courts may in the judge's discretion transfer any cause or causes that may at any time be pending in his or her court to the other court by an order or orders entered in the minutes of that judge's court, and the judge of the court to which such transfer or transfers are made shall dispose of the cause or causes in the same manner as if the cause or causes were originally instituted in his or her court. However, no case may be transferred from one court to another without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) In cases transferred to either of the county criminal courts of appeals, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before transfer, shall be valid and binding as though originally issued out of the court to which the transfer is made.

(c) All new appeals from convictions had under the laws of the State of Texas and ordinances of the municipalities located in Dallas County in justice courts and municipal courts in the county, filed with the county clerk of Dallas County, irrespective of the court or judge to which the appeal is addressed, shall be filed by the clerk alternately in the County Criminal Court of Appeals of Dallas County, Texas, and the County Criminal Court of Appeals No. 2 of Dallas County, Texas.

SECTION 13. EXCHANGE OF BENCHES. The judges of the county criminal courts and county criminal courts of appeals of Dallas County may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

SECTION 14. EFFECTIVE DATES. Except as provided by Section 5(b), this Act takes effect on January 1, 1981.

SECTION 15. EMERGENCY. 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.

The Conference Committee Report was read and filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT SENATE BILL 1169

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1169** 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.

MAUZY
PARKER
KOTHMANN
TRUAN
On the part of the Senate

SEMOS
MALONEY
HILL
CAIN
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to creation of the County Criminal Court No. 10 of Dallas County.

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

SECTION 1. CREATION. There is created a court to be held in Dallas County to be known and designated as "County Criminal Court No. 10 of Dallas County, Texas."

SECTION 2. JURISDICTION. The County Criminal Court No. 10 shall have and is vested with concurrent jurisdiction within the county of all criminal matters and causes, original and appellate, that is now vested in the county courts having jurisdiction in civil and criminal cases under the constitution and laws of Texas.

SECTION 3. WRIT POWER. The County Criminal Court No. 10, or the judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases where the offense charged is within the jurisdiction of the court or any court or tribunal inferior to the court and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts throughout the state.

SECTION 4. TERMS. The terms of the County Criminal Court No. 10 and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms shall be held not less than four times each year and the Commissioners Court of Dallas County shall fix the times at which the court shall hold its terms until the same may be changed according to law.

SECTION 5. JUDGE. (a) No person is eligible for judge of the County Criminal Court No. 10 unless the person is a citizen of the United States and of

this state who shall have been a practicing lawyer of this state or a judge of a court in this state for four years next preceding the appointment or election and who shall have resided in the county of Dallas for two years next preceding the appointment or election.

(b) At the primaries and general election in 1980, there shall be elected by the qualified voters of Dallas County a judge of the County Criminal Court No. 10 for a two-year term beginning on January 1, 1981. At the general election in 1982, the judge shall be elected by the qualified voters of the county for a four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) A vacancy in the office shall be filled by appointment by the Commissioners Court of Dallas County, and the appointee shall hold office until the next general election and until his or her successor is duly elected and qualified.

SECTION 6. BOND AND OATH. The judge of the County Criminal Court No. 10 shall execute a bond and take the oath of office as required by the law relating to county judges.

SECTION 7. SPECIAL JUDGE. A special judge of the County Criminal Court No. 10 may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

SECTION 8. COURT OFFICIALS AND SEAL. The county clerk of Dallas County shall be the clerk of the County Criminal Court No. 10. The seal of the court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Ten, Dallas County, Texas." The sheriff of Dallas County shall in person or by deputy attend the court when required by the judge. The judge of the County Criminal Court No. 10 shall have an administrative assistant to aid the judge in the performance of his or her duties. The salary of the administrative assistant shall be set by the Commissioners Court of Dallas County.

SECTION 9. FEES AND COMPENSATION. The judge of the County Criminal Court No. 10 shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by the judge monthly into the county treasury. The judge of the court shall receive a salary as fixed by the commissioners court at an amount that is at least equal to the sum that is $1,000 less per annum than the total annual salary, including supplements, received by judges of the district courts in Dallas County, which shall be paid in 12 equal monthly installments out of the county treasury by the commissioners court. The judge shall devote his or her entire time to the duties of the office and shall not engage in the practice of the law while in office.

SECTION 10. REMOVAL. The judge of the County Criminal Court No. 10 may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

SECTION 11. COURT REPORTER. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court No. 10 shall appoint an official court reporter, who shall have the qualifications provided by law, shall be a sworn officer of the court, and shall hold the office at the pleasure of the court. The provisions of the general laws of Texas relating to the appointment of official court reporters for the district courts shall apply in all provisions, insofar as they are applicable, to the official court reporter herein authorized to be appointed. The reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are provided for the official court reporters of district courts of this state and shall be governed by any other laws covering the official court reporters of the district courts of this state. The official court

reporter of this court shall not be required to take testimony in cases where neither party litigant nor the judge demands it. Where the testimony is taken by the reporter, a fee of $3 shall be taxed by the clerk as costs in the case, the $3, when collected, to be paid into the county treasury of Dallas County.

SECTION 12. TRANSFER OF CASES. As soon as practicable after this Act takes effect, the clerk of the County Criminal Courts of Dallas County may transfer to the docket of the County Criminal Court No. 10 any of the criminal cases then pending in those courts, and thereafter the judge of any of those courts may in the judge's discretion transfer any cause or causes that may at any time be pending in his or her court to the other courts by an order or orders entered in the minutes of that judge's court, and the judge of the court to which such transfer or transfers are made shall dispose of the cause or causes in the same manner as if the cause or causes were originally instituted in his or her court.

SECTION 13. EXCHANGE OF BENCHES. The judges of the County Criminal Courts of Dallas County, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

SECTION 14. EFFECTIVE DATES. Except as provided by Section 5(b), this Act takes effect on January 1, 1981.

SECTION 15. EMERGENCY. 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.

The Conference Committee Report was read and filed with the Secretary of the Senate.

SENATE BILL 621 WITH HOUSE AMENDMENTS

Senator Jones of Taylor called **S.B. 621** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Peveto

Amend S.B. No. 621 as follows:

1. Add to Section 5.01(a), on page 8, line 15, between "senate." and "A vacancy", the following sentence: "in making the appointments, the governor, to the extent practicable, shall select persons so that each geographical area of the state is represented."

2. Strike "five years" in Sections 5.01(c) on page 8, line 21, and substitute "10 years".

3. In Section 5.09 on page 12, line 11, insert "(a)" between "REPORT." and "The board" and add Subsection (b) to Section 5.09 to read as follows:

"(b) The board shall deliver a copy of each annual report to the governor, the lieutenant governor, and each member of the legislature.

4. In Section 6.03(a) on page 15, add "and must have resided in the district for at least two years" between "district" and the period on line 17.

5. Strike Section 6.41(c) on page 31, lines 12-14, and substitute the following:

"(c) To be eligible to serve on the board, an individual must be a resident of the district and must have resided in the district for at least two years. A

member of the appraisal district board of directors or an officer or employee of the state property tax board, the appraisal office, or a taxing unit is ineligible to serve on the board.

Committee Amendment No. 2 - Peveto

Amend S.B. No. 621 as follows:

(1) Strike "1982" on page 191, line 24, and on page 194, line 16, and substitute "1981".

(2) Strike "1983" on page 191, line 26, on page 192, lines 16, 20 and 25, on page 193, line 25, and on page 194, lines 12, 20, and 22, and substitute "1982".

(3) Strike "and 1982" on page 192, line 22.

Committee Amendment No. 3 - Peveto

Amend S.B. No. 621 as follows:

1. In Section 26.03 on page 112, strike "16 percent" on line 26, and substitute ".0001 percent".

2. In Section 3, on page 194, reletter Subsections (g)-(j) as Subsections (h)-(k) and insert Subsection (g) to read as follows:

(g) Section 26.03 takes effect January 1, 1980.

Committee Amendment No. 4 - Peveto

Amend S.B. No. 621 by striking "50 percent" on page 119, lines 14 and 15, and on page 121, lines 22 and 23, and substitute "25 percent".

Committee Amendment No. 5 - Peveto

Amend S.B. No. 621 as follows:

1. On page 118, in Section 26.07(b)(2), strike the text between the semicolon on line 13 and "and" on line 17.

2. On page 120, in Section 26.08(b)(2), strike the text between the semicolon on line 22 and "and" on line 26.

Committee Amendment No. 6 - Peveto

Amend S.B. No. 621 as follows:

1. Strike Chapter 22 on pages 62-71 and substitute the following:

"CHAPTER 22. RENDITIONS AND OTHER REPORTS

"SUBCHAPTER A. INFORMATION FROM TAXPAYER

Section 22.01. RENDITION GENERALLY
Section 22.02. RENDITION OF PROPERTY LOSING EXEMPTION DURING TAX YEAR
Section 22.03. REPORT OF DECREASED VALUE
Section 22.04. REPORT BY BAILEE, LESSEE, OR OTHER POSSESSOR
Section 22.05. RENDITION BY RAILROAD
Section 22.06. RENDITION BY BANK

[Sections 22.07-22.20 reserved for expansion]

"SUBCHAPTER B. REQUIREMENTS AND PROCEDURES

Section 22.21. PUBLICIZING REQUIREMENTS
Section 22.22. METHOD FOR REQUIRING RENDITION OR REPORT
Section 22.23. FILING DATE
Section 22.24. RENDITION AND REPORT FORMS

Section 22.25. PLACE AND MANNER OF FILING
Section 22.26. SIGNATURE
Section 22.27. RENDITIONS AND REPORTS CONFIDENTIAL

"SUBCHAPTER A. INFORMATION FROM TAXPAYER

"Section 22.01. RENDITION GENERALLY. (a) Except as provided by Chapter 24 of this code, a person shall render for taxation all tangible personal property used for the production of income that he owns or that he manages and controls as a fiduciary on January 1.

"(b) When required by the chief appraiser or the county assessor-collector, a person shall render for taxation any other taxable property that he owns or that he manages and controls as a fiduciary on January 1.

"(c) A person may render for taxation any property that he owns or that he manages and controls as a fiduciary on January 1, although he is not required to render it by Subsection (a) or (b) of this section.

"(d) A fiduciary who renders property shall indicate his fiduciary capacity and shall state the name and address of the owner.

"Section 22.02. RENDITION OF PROPERTY LOSING EXEMPTION DURING TAX YEAR. If an exemption applicable to a property on January 1 terminates during the tax year, the person who owns or acquires the property on the date applicability of the exemption terminates shall render the property for taxation within 30 days after the date of termination.

"Section 22.03. REPORT OF DECREASED VALUE. (a) A person who believes the appraised value of his property decreased during the preceding tax year for any reason other than normal depreciation may file an information report describing the property involved and stating the nature and cause of the decrease.

"(b) Before determining the appraised value of property that is the subject of a completed and timely filed report as provided by Subsection (a) of this section, the chief appraiser or the county assessor-collector, as applicable, must view the property to verify any reported change in appraised value and its cause and nature. The person who views the property shall nte on the back of the property owner's report his name, the date he viewed the property, and his determination of any decrease in appraised value and its cause and nature.

"(c) The chief appraiser or the county assessor-collector, as applicable, shall deliver a written notice to the property owner of the determination made as provided by Subsection (b) of this section.

"Section 22.04. REPORT BY BAILEE, LESSEE, OR OTHER POSSESSOR. (a) When required by the chief appraiser or the cunty assessor-collector, a person shall file a property information report listing all tangible personal property that is owned by another but is in his possession or under his management on January 1 by bailment, lease, consignment, or other arrangement and stating the name and address of the owner.

"(b) When required by the chief appraiser or the county assessor-collector, a person who leases or otherwise provides space to another for storage of personal property shall file an information report stating the name and address of each person to whom he leased or otherwise provided storage space on January 1.

"Section 22.05. RENDITION BY RAILROAD. (a) In addition to other reports required by Chapter 24 of this code, a railroad corporation shall render the property the railroad corporation owns or possesses in each taxing unit as of January 1.

"(b) The rendition shall:

"(1) list all real property other than the property covered by Subdivision (2) of this subsection;

"(2) list the number of miles of railroad together with the market value per mile, which value shall include right-of-way, roadbed, superstructure, and all buildings and improvements used in the operation of the railroad; and

"(3) list all personal property as required by Section 22.01 of this code.

"Section 22.06. RENDITION BY BANK. A banking corporation located in this state shall file a rendition statement listing the bank's assets and liabilities.

[Sections 22.07-22.20 reserved for expansion]

"SUBCHAPTER B. REQUIREMENTS AND PROCEDURES

"Section 22.21. PUBLICIZING REQUIREMENTS. Each year the director of the state property tax board, each chief appraiser, and each county assessor-collector shall publicize, in a manner reasonably designed to notify all property owners, the requirements of the law relating to filing rendition statements and property reports and of the availability of forms.

"Section 22.22. METHOD FOR REQUIRING RENDITION OR REPORT. The chief appraiser or county assessor-collector may require a rendition statement or property report he is authorized to require by this chapter by delivering written notice that the statement or report is required to the person responsible for filing it. He shall attach to the notice a copy of the appropriate form.

"Section 22.23. FILING DATE. (a) Rendition statements and property reports must be delivered to the chief appraiser or county assessor-collector, as applicable, after January 1 and before April 1, except as provided by Section 22.02 of this code.

"(b) For good cause shown the chief appraiser or the county assessor-collector, as applicable, may extend a deadline for filing a rendition statement or property report by written order but no single extension may exceed 15 days and in no event may he extend the filing deadline beyond April 15.

"Section 22.24. RENDITION AND REPORT FORMS. (a) A person required to render property or to file a report as provided by this chapter shall use the appropriate form prescribed by the state property tax board.

"(b) A person filing a rendition or report shall include all information required by the form.

"(c) The state property tax board may prescribe different forms for different kinds of property, but shall ensure that each form requires a property owner to furnish the information necessary to identify the property and to determine its ownership, taxability, situs, and market value. The board may approve forms designed by the appraisal office or the county assessor-collector for unusual or special circumstances. A form may not require a property owner to furnish information not relevant to the appraisal of property for tax purposes or to the assessment or collection of property taxes.

"(d) A rendition or report form shall permit but may not require a property owner to state his opinion about the market value of his property.

"Section 22.25. PLACE AND MANNER OF FILING. A rendition statement or property report required or authorized by this chapter must be filed with the chief appraiser for each district and with the county assessor-collector for the county in which the property listed in the statement or report is taxable.

"Section 22.26. SIGNATURE. (a) Each rendition statement or property report required or authorized by this chapter must be signed by an individual who is required to file the statement or report.

"(b) When a corporation is required to file a statement or report, an officer of the corporation or an employee or agent who has been designated in writing by the board of directors or by an authorized officer to sign in behalf of the corporation must sign the statement or report.

"Section 22.27. RENDITIONS AND REPORTS CONFIDENTIAL. (a) Rendition statements and property reports filed with an appraisal office or a county assessor-collector are confidential and not open to public inspection. The statements and reports and the information they contain about specific property or a specific property owner may not be disclosed to anyone other than an employee of the appraisal office or of the county assessor-collector who appraises property except as authorized by Subsection (b) of this section.

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

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

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

"(3) to the director of the state property tax board and his employees authorized by him in writing to receive the information or to an assessor or a chief appraiser, if requested in writing;

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

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

"(6) if and to the extent the information is required to be included in a public document or record that the appraisal office or the county assessor-collector is required to prepare or maintain.

"(c) A person who legally has access to a statement or report or who legally obtains the confidential information a statement or report contains commits a Class B misdemeanor if he knowingly:

"(1) permits inspection of the statement or report by a person not authorized to inspect it by Subsection (b) of this section; or

"(2) discloses confidential information contained in the statement or report to a person not authorized to receive the information by Subsection (b) of this section.

2. Strike line 19 on page 1 and substitute the following:
CHAPTER 22. RENDITIONS AND OTHER REPORTS

Committee Amendment No. 7 - Peveto

Amend S.B. No. 621 as follows:

1. On page 188, renumber Section 42.27 as Section 42.28, renumber Section 42.28 as Section 42.27, and move the text on lines 7-24 to between lines 1 and 2.

2. Strike "42.28" on page 188, line 25, and substitute "42.29".

3. On page 183, reverse the order of lines 5 and 6 and renumber Section 42.27 as 42.28 and Section 42.28 as 42.27.

4. On page 183, line 7, strike "42.28" and substitute "42.29".

5. Strike Subsection (b) of Section 5, beginning on page 248, line 17, and ending on page 249, line 24, and reletter Subsection (c), beginning on page 249, line 25, as Subsection (b).

6. Strike "Subchapter A of" on page 192, line 1.

Committee Amendment No. 8 - Peveto

Amend S.B. No. 621 by adding "(including a mobile home)" between "structure" and "or" on page 37, line 22.

Committee Amendment No. 9 - Schlueter

Amend S.B. No. 621 by striking Subsection (d) of Section 11.01 on page 34, lines 4-11, and substituting the following:

(d) Goods, wares, ores (other than oil, gas, and other petroleum products), and merchandise are presumed to be in interstate commerce and/or are not to be located in this state for longer than a temporary period if the property is:

(1) transported from outside this state into this state to be forwarded outside this state;

(2) detained in this state for assembling, storing, manufacturing, processing, or fabricating purposes; and

(3) not located in this state for longer than 175 days.

Committee Amendment No. 10 - Bock

Amend **S.B. 621** by adding 6.09 on page 21 after line 2.

Sec. 6.09. SMALL CONSERVATION DISTRICTS. A conservation and reclamation district created pursuant to Art. 16, Sec. 59 of the Texas Constitution, containing 1,000 acres or less and proposing to provide or providing water, sewer, drainage or flood control services or any of these services as the principal function of the district, is authorized, upon approval by the majority of the qualified voters in such district voting on the question, to require that its tax assessor-collector perform all functions of the chief appraiser and to appoint a board of equalization to perform all functions of the appraisal review board for the purpose of such district's taxation.

An election on such proposition may be called by the governing body of such district on its own motion, or shall be so called upon receipt of a petition signed by at least 10% of the qualified voters residing in such district according to the most recent official list of qualified voters. If a majority of the votes cast in such election are in favor of such proposition, the tax assessor-collector for such district shall perform the same functions as the chief appraiser for the appraisal district with respect to property within such district. The governing body of such district shall appoint a board of equalization composed of three (3) residents of such district who shall perform the same functions for such district with respect to property located within such district as the appraisal review board performs for the appraisal district. The appraisal roll, as approved by the board of equalization, shall constitute the appraisal roll for such district for the assessment, levy and collection of such district's taxes. All costs related to the appraisal of property and preparation of the appraisal roll shall be determined and borne by such district.

The appraisal district shall continue to perform all its functions as provided under this code with respect to the appraisal of property situated within such district for the purpose of taxation by all other taxing units.

Amendment No. 11 - Peveto

Amend S.B. No. 621, first printing, by adding Subsection (d) to Section 25.18 on page 104, immediately after line 21, to read as follows:

(d) A taxing unit containing not more than 1,000 acres, by resolution adopted by its governing body, may require the appraisal office to appraise all property within the unit or to identify and appraise newly annexed territory and new improvements in the unit as of a date specified in the resolution. On or before the deadline requested by the taxing unit, which deadline may not be less than 30 days after the date the resolution is delivered to the appraisal office, the chief appraiser shall complete the appraisal and certify to the unit an estimate of

the total appraised value of property taxable by the unit as of the date specified in such resolution. The unit must pay the appraisal district for the cost of making the appraisal. The chief appraiser shall provide sufficient personnel to make the appraisals required by this subsection on or before the deadline requested by the taxing unit.

Committee Amendment No. 12 - Schlueter

Amend S.B. No. 621 by adding Subsections (d) and (e) to Section 11.20 on page 46, immediately after line 16, to read as follows:

(d) Use of property that qualifies for the exemption prescribed by Subsection (a)(1) or (2) of this section for secular or other purposes other than religious worship does not result in loss of the exemption if the primary use of the property is for religious worship and all income from the other use is devoted exclusively to the maintenance and development of the property as a place of religious worship.

(e) For the purposes of this section, "religious worship" means individual or group ceremony or meditation, education, and fellowship the purpose of which is to manifest or develop reverence, homage, and commitment in behalf of a religious faith.

Amendment No. 13 - Maloney

Amend Committee Amendment No. 11 to S.B. No. 621 Page 265, line 1, by inserting the word "occasional" between the words "for" and "secular" and on Page 265, line 2, by deleting the words "or other" at the beginning of line 2

Amendment No. 14 - Schlueter

Amend Senate Bill 621 by striking subsection (c) of section 25.01 on page 96, lines 5-12, and substituting the following:

(c) A contract for appraisal services for an appraisal district or a county is invalid if it does not provide that copies of the appraisal, together with supporting data, must be made available to the appraisal district or county, and such appraisals and supporting data shall be public records. "Supporting data" shall not be construed to include personal notes, correspondence, working papers, thought processes, or any other matters of a privileged or proprietary nature.

Amendment No. 15 - Peveto

Amend S.B. No. 621, first printing, as follows:

1. On page 55, line 5, strike ", 11.14, or".

2. On page 55, line 22, strike "or Section 11.12" and substitute ", 11.12, 11.14, 11.15, or 11.16".

Amendment No. 16 - Peveto

Amend S.B. No. 621 as follows:

1. Strike the quotation marks on page 1, lines 8, 9, and 10, on all other centered headings, and at the beginning of each paragraph, and adjust other quotation marks as necessary.

2. Correct the capitalization of the initial letters of the term "appraisal review board" so that those letters are lower case wherever the phrase "appraisal review board" appears in the text, but not where that term is entirely capitalized

in a section or other heading or a table of contents and not when the initial letter of the first word in that term is capitalized because it begins a sentence.

3. On page 6, line 18, add a comma between "or" and "if appropriate".

4. On page 10, line 16, add ", a course or raining program conducted, sponsored, or approved by the board" between "applicable" and the period.

5. Strike "6.30" on page 13, line 15, and on page 31, line 3, and substitute "6.31".

6. On page 57, line 18, insert a comma between "county" and "the requirements".

7. Strike "42.28" on page 183, line 7, and on page 188, line 25, and substitute "42.29".

8. On page 183, correct the table of contents for Subchapter B of Chapter 42.

Amendment No. 17 - Davis

Amend S.B. No. 621, first printing, as follows:

1. On page 82, after line 21, add Subchapters D and E to Chapter 23 to read as follows:

[Sections 23.47-23.50 reserved for expansion]

SUBCHAPTER D. APPRAISAL OF AGRICULTURAL LAND

Section 23.51. DEFINITIONS. In this subchapter:

(1) "Qualified open-space land" means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use for five of the preceding seven years or land that is used principally as an ecological laboratory by a public or private college or university. Qualified open-space land includes all appurtenances to the land. For the purposes of this subdivision, appurtenances to the land means private roads, dams, reservoirs, water wells, canals, ditches, terraces, and other reshapings of the soil, fences, and riparian water rights.

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

(3) "Category" means the value classification of land considering the agricultural use to which the land is principally devoted. Categories of land include but are not limited to irrigated cropland, dry cropland, improved pasture, native pasture, orchard, and waste and may be further divided according to soil type, soil capability, irrigation, general topography, geographical factors, and other factors which influence the productive capacity of the category. The chief appraiser and the county assessor-collector shall obtain information from the Texas Agricultural Extension Service, Soil Conservation Service, and other recognized agricultural sources for the purposes of determining the categories of production existing in the appraisal district or county.

(4) "Net to land" means the average annual net income derived from the use of open-space land that would have been earned from the land during the five-year period preceding the appraisal by an owner using ordinary prudence in the management of the land and the farm crops or livestock produced or supported on the land and, in addition, any income received from hunting or recreational leases. The chief appraiser and the county assessor-collector shall calculate net to land using an owner-operator budget, subtracting

all ordinary and prudent expenses incurred in pursuit of agricultural use, including all ordinary and prudent expenses incurred in connection with hunting and recreational leases and including owner labor and fixed and variable costs, from the five-year average agricultural income using estimates available from the Texas Agricultural Extension Service, U.S. Agricultural Stabilization and Conservation Service, the Soil Conservation Service, Texas Department of Agriculture Crop and Livestock Reporting Service, and universities and colleges within this state. Only if insufficient data is available to calculate net to land on the basis of an owner-operator budget, net to land may be determined by considering the income that would be due to the owner of the land under cash lease, share lease, or whatever lease arrangement is typical in that area for that category of land, and all expenses directly attributable to the agricultural use of the land by the owner shall be subtracted from this owner income and the results shall be used in income capitalization. Net to land shall be determined by the same method for all land in the same category located in the same appraisal district or county, as applicable. In calculating net to land, a reasonable deduction shall be made for any depletion that occurs of underground water used in the agricultural operation.

(5) "Income capitalization" means the process of dividing net to land by the capitalization rate to determine the appraised value.

Section 23.52. APPRAISAL OF QUALIFIED AGRICULTURAL LAND. (a) The appraised value of qualified open-space land is determined on the basis of the category of the land, using accepted income capitalization methods applied to average net to land. The appraised value so determined may not exceed the market value as determined by other appraisal methods.

(b) The chief appraiser and county assessor-collector shall determine the appraised value according to this subchapter and, when requested by a landowner, the appraised value according to Subchapter C of this chapter of each category of open-space land owned by that landowner and shall make each value and the market value according to the preceding year's appraisal roll available to a person seeking to apply for appraisal as provided by this subchapter or as provided by Subchapter C of this chapter.

(c) The chief appraiser and the county assessor-collector may not change the appraised value of a parcel of open-space land unless the owner has applied for and the land has qualified for appraisal as provided by this subchapter or by Subchapter C of this chapter or unless the change is made as a result of a reappraisal.

(d) The state property tax board, by rule, shall develop and distribute to each appraisal office and county assessor-collector appraisal manuals setting forth this method of appraising qualified open-space land, and each appraisal office and county assessor-collector shall use the appraisal manuals in appraising qualified open-space land. The state property tax board, by rule, shall develop and the appraisal office and county assessor-collector shall enforce procedures to verify that land meets the conditions contained in Section 23.51(1) of this code. The rules, before taking effect, must be approved by a majority vote of a committee comprised of the following officials or their designees: the governor, the comptroller, the attorney general, the agriculture commissioner, and the commissioner of the General Land Office.

(e) For the purposes of Section 23.55 of this code, the chief appraiser and county assessor-collector also shall determine the market value of qualified open-space land and shall record both the market value and the appraised value in the appraisal records.

(f) The appraisal of minerals or subsurface rights to minerals is not within the provisions of this subchapter.

Section 23.53. CAPITALIZATION RATE. The capitalization rate to be used in determining the appraised value of qualified open-space land as provided by this subchapter is 10 percent or the interest rate specified by the Federal Land Bank of Houston on December 31 of the preceding year plus 2-1/2 percentage points, whichever percentage is greater.

Section 23.54. APPLICATION. (a) A person claiming that his land is eligible for appraisal under this subchapter must file a valid application with the chief appraiser, for purposes of appraisal by the appraisal district, or the county assessor-collector, for purposes of appraisal by that officer.

(b) To be valid, the application must:

(1) be on a form provided by the appraisal office or the county assessor-collector, if applicable, and prescribed by the state property tax board; and

(2) contain the information necessary to determine the validity of the claim.

(c) The state property tax board shall include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement.

(d) The form must be filed before April 1. However, for good cause the tax assessor may extend the filing deadline for not more than 60 days.

(e) If a person fails to file a valid application on time, the land is ineligible for appraisal as provided by this subchapter for that year.

(f) The appraisal office and the county assessor-collector shall make a sufficient number of printed application forms readily available at no charge and shall mail a form each year, at least 90 days before the filing deadline, to each person owning land that was appraised as provided by this subchapter in the preceding year.

Section 23.55. CHANGE OF USE OF LAND. (a) If the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(b) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

(c) The additional tax imposed by this section does not apply to a year for which the tax has already been imposed.

(d) If the change of use applies to only part of a parcel that has been appraised as provided by this subchapter, the additional tax applies only to that part of the parcel and equals the difference between the taxes imposed on that part of the parcel and the taxes that would have been imposed had that part been taxed on the basis of market value.

(e) The assessor shall prepare and deliver a statement for the additional taxes as soon as practicable after the change of use occurs. The taxes become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next date on which the unit's taxes become delinquent that is more than 10 days after the date the statement is delivered.

(f) The sanctions provided by Subsection (a) of this section do not apply if the change of use occurs as a result of a sale for right-of-way or a condemnation.

(g) If the use of the land changes to a use that qualifies under Subchapter E of this chapter, the sanctions provided by Subsection (a) of this section do not apply.

(h) Additional taxes, if any, for a year in which land was designated for agricultural use as provided by Subchapter C of this chapter (or Article VIII, Section 1-d, of the constitution) are determined as provided by that subchapter, and the additional taxes imposed by this section do not apply for that year.

Section 23.56. LAND INELIGIBLE FOR APPRAISAL AS OPEN-SPACE LAND. Land is not eligible for appraisal as provided by this subchapter if:

(1) the land is located inside the corporate limits of an incorporated city or town, unless:

(A) the city or town is not providing the land with governmental and proprietary services substantially equivalent in standard and scope to those services it provides in other parts of the city or town with similar topography, land utilization, and population density; or

(B) the land has been devoted principally to agricultural use continuously for the preceding five years;

(2) the land is owned by an individual who is a nonresident alien or by a foreign government if that individual or government is required by federal law or by rule adopted pursuant to federal law to register his ownership or acquisition of that property; or

(3) the land is owned by a corporation, partnership, trust, or other legal entity if the entity is required by federal law or by rule adopted pursuant to federal law to register its ownership or acquisition of that land and a nonresident alien or a foreign government or any combination of nonresident aliens and foreign governments own a majority interest in the entity.

[Sections 23.57-23.70 reserved for expansion]

SUBCHAPTER E. APPRAISAL OF TIMBER LAND

Section 23.71. DEFINITIONS. In this subchapter:

(1) "Category of the land" means the value classification of land for timber production, based on soil type, soil capability, general topography, weather, location, and other pertinent factors, as determined by competent governmental sources.

(2) "Net to land" means the average net income that would have been earned by a category of land over the preceding five years by a person using ordinary prudence in the management of the land and the timber produced on the land. The net income for each year is determined by multiplying the land's potential average annual growth, expressed in cords or board feet of wood, by the average stumpage value, taking into consideration the three general types of timber as produced on the four different soil types, as determined by using information from the U.S. Forest Service, U.S. Geological Survey, the Soil Conservation Service, Texas Forest Service, and colleges and universities within this state, and by subtracting from the product reasonable management costs and other reasonable expenses directly attributable to the production of the timber.

Section 23.72. QUALIFICATION FOR PRODUCTIVITY APPRAISAL. Land qualifies for appraisal as provided by this subchapter if it is currently and actively devoted principally to production of timber or forest products to the degree of intensity generally accepted in the area with intent to produce income and has been devoted principally to production of timber or forest products for five of the preceding seven years.

Section 23.73. APPRAISAL OF QUALIFIED TIMBER LAND. (a) The appraised value of qualified timber land is determined on the basis of the category of the land, using accepted income capitalization methods applied to

average net to land. The appraised value so determined may not exceed the market value of the land as determined by other appraisal methods.

(b) The state property tax board, by rule, shall develop and distribute to each appraisal office and county assessor-collector appraisal manuals setting forth this method of appraising qualified timber land, and each appraisal office and county assessor-collector shall use the appraisal manuals in appraising qualified timber land. The state property tax board, by rule, shall develop and the appraisal office and county assessor-collector shall enforce procedures to verify that land meets the conditions contained in Section 23.72 of this coe. The rules, before taking effect, must be approved by majority vote of a committee comprised of the following officials or their designees: the governor, the comptroller, the attorney general, the agriculture commissioner, the commissioner of the General Land Office.

(c) For the purposes of Section 23.76 of this code, the chief appraiser and the county assessor-collector also shall determine the market value of qualified timber land and shall record both the market value and the appraised value in the appraisal records.

(d) The appraisal of minerals or subsurface rights to minerals is not within the provisions of this subchapter.

Section 23.74. CAPITALIZATION RATE. The capitalization rate to be used in determining the appraised value of qualified timber land as provided by this subchapter is the interest rate specified by the Federal Land Bank of Houston on December 31 of the preceding year plus 2-1/2 percentage points.

Section 23.75. APPLICATION. (a) A person claiming that his land is eligible for appraisal as provided by this subchapter must file a valid application with the chief appraiser, for purposes of appraisal by the appraisal district, or the county assessor-collector, for purposes of appraisal by that officer.

(b) To be valid, the application must:

(1) be on a form provided by the appraisal office or the county assessor-collector, if applicable, and prescribed by the state property tax board; and

(2) contain the information necessary to determine the validity of the claim.

(c) The state property tax board shall include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement.

(d) The form must be filed before April 1. However, for good cause the tax assessor may extend the filing deadline for not more than 60 days.

(e) If a person fails to file a valid application on time, the land is ineligible for appraisal as provided by this subchapter for that year.

(f) The appraisal office and the county assessor-collector shall make a sufficient number of printed application forms readily available at no charge and shall mail a form each year, at least 90 days before the filing deadline, to each person owning land that was appraised as provided by this subchapter in the preceding year.

Section 23.76. CHANGE OF USE OF LAND. (a) If the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(b). A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

(c) The additional tax imposed by this section does not apply to a year for which the tax has already been imposed.

(d) If the change of use applies to only part of a parcel that has been appraised as provided by this subchapter, the additional tax applies only to that part of the parcel and equals the difference between the taxes imposed on that part of the parcel and the taxes that would have been imposed had that part been taxed on the basis of market value.

(e) The assessor shall prepare and deliver a statement for the additional taxes as soon as practicable after the change of use occurs. The taxes become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next date on which the unit's taxes become delinquent that is more than 10 days after the date the statement is delivered.

(f) The sanctions provided by Subsection (a) of this section do not apply if the change of use occurs as a result of a sale for right-of-way or a condemnation.

(g) If the use of the land changes to a use that qualifies under Subchapter C or D of this chapter, the sanctions provided by Subsection (a) of this section do not apply.

Section 23.77. LAND INELIGIBLE FOR APPRAISAL AS TIMBER LAND. Land is not eligible for appraisal as provided by this subchapter if:

(1) the land is located inside the corporate limits of an incorporated city or town, unless:

(A) the city or town is not providing the land with governmental and proprietary services substantially equivalent in standard and scope to those services it provides in other parts of the city or town with similar topography, land utilization, and population density; or

(B) the land has been devoted principally to production of timber or forest products continuously for the preceding five years;

(2) the land is owned by an individual who is a nonresident alien or by a foreign government if that individual or government is required by federal law or by rule adopted pursuant to federal law to register his ownership or acquisition of that property; or

(3) the land is owned by a corporation, partnership, trust, or other legal entity if the entity is required by federal law or by rule adopted pursuant to federal law to register its ownership or acquisition of that land and a nonresident alien or a foreign government or any combination of nonresident aliens and foreign governments own a majority interest in the entity.

Section 23.78. MINIMUM APPRAISAL OF TIMBER LAND. The value for ad valorem tax purposes of qualified timber land appraised as provided by this article may not be less than the appraised value of that land for the 1978 tax year, except that the value used for any tax year may not exceed the fair market value of the land as determined by other generally accepted appraisal methods.

2. On page 72, after line 21, insert the following:

[Sections 23.47-23.50 reserved for expansion]

SUBCHAPTER D. APPRAISAL OF AGRICULTURAL LAND

Section 23.51. DEFINITIONS

Section 23.52. APPRAISAL OF QUALIFIED AGRICULTURAL LAND

Section 23.53. CAPITALIZATION RATE

Section 23.54. APPLICATION

Section 23.55. CHANGE OF USE OF LAND

Section 23.56. LAND INELIGIBLE FOR APPRAISAL AS OPEN-SPACE LAND

[Sections 23.57-23.70 reserved for expansion]

SUBCHAPTER E. APPRAISAL OF TIMBER LAND

Section 23.71. DEFINITIONS
Section 23.72. QUALIFICATION FOR PRODUCTIVITY APPRAISAL
Section 23.73. APPRAISAL OF QUALIFIED TIMBER LAND
Section 23.74. CAPITALIZATION RATE
Section 23.75. APPLICATION
Section 23.76. CHANGE OF USE OF LAND
Section 23.77. LAND INELIGIBLE FOR APPRAISAL AS TIMBER LAND
Section 23.78. MINIMUM APPRAISAL OF TIMBER LAND

3. On page 96, strike Subdivision (5) of Section 25.02, on lines 23-25, and substitute the following:

"(5) the appraised value of land and, if the land is appraised as provided by Subchapter C, D, or E, Chapter 23, of this code, the market value of the land;"

4. On page 129, strike Subdivision 3 of Section 31.01(c), on lines 2-5, and substitute the following:

"(3) if the property is land appraised as provided by Subchapter C, D, or E, Chapter 23, of this code, state the market value and the taxable value for purposes of deferred or additional taxation as provided by Section 23.46, 23.55, or 23.76, as applicable, of this code;"

5. On page 167, strike Subdivision (3) of Section 41.01, on lines 22 and 23, and substitute the following:

"(3) land is improperly granted appraisal as provided by Subchapter C, D, or E, Chapter 23, of this code; or"

6. On page 168, strike Subdivision (1) of Section 41.03, on lines 10-12, and substitute the following:

"(1) a determination of the appraised value of property or, in the case of land appraised as provided by Subchapter C, D, or E, Chapter 23, of this code, a determination of its appraised or market value;"

7. On page 168, in Section 41.03, renumber Subdivision (4) as Subdivision (5), strike Subdivision (3), and add Subdivisions (3) and (4) to read as follows:

"(3) a grant, in whole or in part, of a partial exemption;

"(4) a determination that land qualifies for appraisal as provided by Subchapter C, D, or E, Chapter 23, of this code; or"

8. On page 174, strike Subdivision (1) of Section 41.41, on lines 6-8, and substitute the following:

"(1) determination of the appraised value of his property or, in the case of land appraised as provided by Subchapter C, D, or E, Chapter 23, of this code, determination of its appraised or market value;"

9. On page 174, in Section 41.41, strike Subdivision (4), renumber Subdivisions (5)-(7) as Subdivisions (6)-(8), and add Subdivisions (4) and (5) to read as follows:

"(4) denial to him, in whole or in part, of a partial exemption;

"(5) determination that his land does not qualify for appraisal as provided by Subchapter C, D, or E, Chapter 23, of this code;"

10. On page 54, strike line 22 and insert the following immediately after Section 11.24:

Section 11.25. AUTOMOBILES. (a) A family or an individual who is not a member of a family is entitled to exemption of two automobiles. If the family or individual owns more than two automobiles, the exemption applies to the two with the highest market value.

(b) A family owns an automobile for the purposes of this section if any member of the family owns the automobile.

(c) In this section:

(1) "Automobile" means a passenger car or a light truck as those terms are defined by Section 2, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes).

(2) "Family" means a husband and wife and any minor children residing with them or an individual parent and the minor children residing with that parent.

[Sections 11.26-11.40 reserved for expansion]

11. On page 33, strike line 9 and substitute the following:

Section 11.25. AUTOMOBILES

[Sections 11.26-11.40 reserved for expansion]

12. On page 55, line 22, strike "Section 11.11 or Section 11.12" and substitute "Section 11.11, 11.12, 11.14, or 11.25".

13. On page 39, strike Subdivision (2) of Section 11.14(b), on lines 10-15, and substitute the following:

(2) "Personal effects" means tangible personal property that normally is worn or carried by an individual or that is used by an individual in personal, recreational, or other activities that do not involve production of income. "Personal effects" does not include a motor vehicle, boat, or other means of transportation, a trailer that must be registered for operation on a highway, or a mobile home or similar vehicle designed for occupancy as a dwelling.

14. On page 4, strike Subdivision (6) of Section 1.04, on lines 11-13, and substitute the following:

(6) "Intangible personal property" means a claim, interest (other than an interest in tangible property), right, or other thing that has value but cannot be seen, felt, weighed, measured, or otherwise perceived by the senses, although its existence may be evidenced by a document. It includes a stock, bond, note or account receivable, franchise, license or permit, demand or time deposit, certificate of deposit, share account, share certificate account, share deposit account, insurance policy, annuity, pension, cause of action, contract, and goodwill.

15. On page 32, strike lines 17 and 18 and substitute the following:

Section 11.01. REAL AND TANGIBLE PERSONAL PROPERTY

Section 11.02. INTANGIBLE PERSONAL PROPERTY

[Sections 11.03-11.10 reserved for expansion]

16. Strike Subsections (e) and (f) of Section 11.01 on page 34, lines 12-19.

17. On page 33, strike lines 18 and 19 and substitute the following:

Section 11.01. REAL AND TANGIBLE PERSONAL PROPERTY. (a) All real and tangible personal property that this state has jurisdiction to tax is taxable unless exempt by law.

18. On page 34, strike line 20 and insert a new Section 11.02 to read as follows:

Section 11.02. INTANGIBLE PERSONAL PROPERTY. (a) Except as provided by Subsection (b) of this section, intangible personal property is not taxable.

(b) Stock in a banking corporation, intangible property of an unincorporated bank, intangible property of a transportation business listed in Subchapter A, Chapter 24, of this code, and intangible property governed by Article 4.01, Insurance Code, or by Section 11.09, Texas Savings and Loan Act, are taxable as provided by law, unless exempt by law, if this state has jurisdiction to tax those intangibles.

(c) This state has jurisdiction to tax intangible personal property, other than stock in a banking corporation, if the property is:

(1) owned by a resident of this state; or

(2) located in this state for business purposes.

(d) This state has jurisdiction to tax stock in a banking corporation that is incorporated in this state or, if the bank is a national bank, is located in this state.

[Sections 11.03-11.10 reserved for expansion]

19. In Section 22.06, on page 66, line 3, strike "banking corporation" and substitute "bank".

20. On page 72, strike line 9 and substitute the following:

Section 23.14. UNINCORPORATED BANK

21. On pages 73 and 74, strike Section 23.14 and substitute the following:

Section 23.14. UNINCORPORATED BANK. (a) Except as provided by Subsection (b) of this section, the real property and the tangible and intangible personal property owned by an unincorporated bank are appraised at market value.

(b) Money on hand, in transit, or on deposit and notes and accounts receivable, unpaid interest accrued, and other credits are appraised by deducting the total amount of the bank's deposit liability from the total market value of all of those items.

22. Strike Section 11.13 on pages 35-39 and substitute the following:

Section 11.13. RESIDENCE HOMESTEAD. (a) A family or single adult is entitled to an exemption from taxation for state purposes and for the county purposes authorized in Article VIII, Section 1-a, of the Texas Constitution, of $3,000 of the assessed value of his residence homestead.

(b) An adult is entitled to exemption from taxation by a school district of $5,000 of the appraised value of his residence homestead.

(c) In addition to the exemption provided by Subsection (b) of this section, an adult who is disabled or is 65 or older is entitled to an exemption from taxation by a school district of $10,000 of the appraised value of his residence homestead.

(d) In addition to the exemptions provided by Subsections (b) and (c) of this section, an individual who is disabled or is 65 or older is entitled to an exemption from taxation by a taxing unit of a portion (the amount of which is fixed as provided by Subsection (e) of this section) of the appraised value of his residence homestead if the exemption is adopted either:

(1) by the governing body of the taxing unit; or

(2) by a favorable vote of a majority of the qualified voters of the taxing unit at an election called by the governing body of the taxing unit, and the governing body shall call the election on the petition of at least 20 percent of the number of qualified voters who voted in the preceding election of the taxing unit.

(e) The amount of an exemption adopted as provided by Subsection (d) of this section is $3,000 of the appraised value of the residence homestead unless a larger amount is specified by:

(1) the governing body authorizing the exemption if the exemption is authorized as provided by Subsection (d)(1) of this section; or

(2) the petition for the election if the exemption is authorized as provided by Subsection (d)(2) of this section.

(f) Once authorized, an exemption adopted as provided by Subsection (d) of this section may be repealed or decreased or increased in amount by the governing body of the taxing unit or by the procedure authorized by Subsection (d)(2) of this section. In the case of a decrease, the amount of the exemption may not be reduced to less than $3,000 of the market value.

(g) If the residence homestead exemption provided by Subsection (d) of this section is adopted by a county that levies a tax for the county purposes authorized by Article VIII, Section 1-a, of the Texas Constitution, the residence homestead exemptions provided by Subsections (a) and (d) of this section may not be aggregated for the county tax purposes. An individual who is eligible for both exemptions is entitled to take only the exemption authorized as provided by Subsection (d) of this section for purposes of that county tax.

(h) Joint or community owners may not each receive the same exemption provided by or pursuant to this section for the same residence homestead in the same year. An eligible disabled person who is 65 or older may not receive both a disabled and an elderly residence homestead exemption but may choose either.

(i) The assessor and collector for a taxing unit may disregard the exemptions authorized by Subsection (b), (c), or (d) of this section and assess and collect a tax pledged for payment of debt without deducting the amount of the exemption if:

(1) prior to adoption of the exemption, the unit pledged the taxes for the payment of a debt; and

(2) granting the exemption would impair the obligation of the contract creating the debt.

(j) For purposes of this section, "residence homestead" means a structure (including a mobile home) or a separately secured and occupied portion of a structure (together with the land and improvements used in the residential occupancy of the structure, if the structure and the land and improvements have identical ownership) that:

(1) is owned by one or more individuals;

(2) is designed or adapted for human residence;

(3) is used as a residence; and

(4) is occupied as his principal residence by an owner who qualifies for the exemption.

(k) A qualified residential structure does not lose its character as a residence homestead if a portion of the structure is rented to another or is used primarily for other purposes that are incompatible with the owner's residential use of the structure. However, the amount of any residence homestead exemption does not apply to the value of that portion of the structure that is used primarily for purposes that are incompatible with the owner's residential use.

(l) A qualified residential structure does not lose its character as a residence homestead when the owner who qualifies for the exemption temporarily stops occupying it as a principal residence if that owner does not establish a different principal residence and intends to return and occupy the structure as his principal residence.

(m) In this section:

(1) "Disabled" means under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance.

(2) "School district" means a political subdivision organized to provide general elementary and secondary public education. "School district" does not include a junior college district or a political subdivision organized to provide special education services.

23. In Section 11.43(f) on page 57, after the period on line 7, add the following:

"The board shall include on the forms a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement."

24. On page 54, strike line 22 and insert the following:

Section 11.26. LIMITATION OF SCHOOL TAX ON HOMESTEADS OF ELDERLY. (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 Section 11.13(c) of this code. 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.

(b) If an individual makes improvements to his residence homestead, other than improvements required to comply with governmental rquirements or repairs, the school district may increase the tax on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. The amount of the tax increase is determined by applying the current tax rate to the difference in the assessed value of the homestead with the improvements and the assessed value it would have had without the improvements. The limitations imposed by Subsection (a) of this section then apply to the increased amount of tax until more improvements, if any, are made.

(c) The limitation on tax increases required by this section expires if on January 1:

(1) none of the owners of the structure who qualify for the exemption and who owned the structure when the limitation first took effect is using the structure as a residenc homestead; or

(2) none of the owners of the structure qualifies for the exemption.

[Sections 11.27-11.40 reserved for expansion]

25. On page 33, strike line 9 and insert the following:

Section 11.26. LIMITATION OF SCHOOL TAX ON HOMESTEADS OF ELDERLY

[Sections 11.27-11.40 reserved for expansion]

26. In Section 6 on page 253, add Subsection (f) immediately following Subsection (e) to read as follows:

(f) If H.B. No. 1060, 66th Legislature, Regular Session, 1979, is enacted, the following articles of the Revised Civil Statutes of Texas, 1925, enacted by that Act, are repealed:

(1) 7150.1, 7150.2, 7150.3, 7150.4, and 7150.5; and

(2) 7174A and 7174B.

27. In Section 3(i) on page 194, strike "(a) and (b)" on line 19 and substitute "(a), (b), and (f)(2)" and strike "and (e)" on lines 17 and 18 and substitute "(e), and (f)(1)".

Amendment No. 18 - Looney

Amend SB 621 by adding the following on page 14 line 6 after "code" and before "or": "Irrigation districts organized under Chapter 58 of the Water Code"

Amendment No. 19 - Smith

Amend S.B. No. 621, first printing, by inserting Subsection (i) after line 10 on page 54 to read as follows:

"(i) Community Service Clubs. An association that qualifies as a community service club is entitled to an exemption from taxation of the tangible property the club owns that qualifies under Sec. 2, Article 8 of the Constitution, and that is not used for profit or held for gain. To qualify as a community service club for the purposes of this subsection, an association must:

"(1) be organized to promote and must engage primarily in promoting:

"(A) the religious, educational, and physical development of boys, girls, young men, or young women;

"(B) the development of the concepts of patriotism and love of country; and

"(C) the development of interest in community, national, and international affairs;

"(2) be affiliated with a state or national organization of similar purpose;

"(3) be open to membership without regard to race, religion, or national origin; and

"(4) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain.

Amendment No. 20 - Schlueter

Amend SB 621 by striking all of Section 26.02 and adding the following:

Section 26.02 ASSESSMENT RATIOS PROHIBITED. Except as provided by Section 26.03 of this Act, the use of assessment ratios in the assessment of property for ad valorem taxation is prohibited. This section takes effect January 1, 1980.

Amendment No. 21 - Finnell

Amend SB 621 by adding the following to Sec. 26.08(a) on page 120:

When increased expenditure of funds by a school district is necessary to respond to a disaster such as a tornado, hurricane, flood, or other calamity (not including a drought) which has impacted a school district and the governor has requested federal disaster assistance for the area in which the school district is located, a petition is not valid under this section to repeal a tax increase adopted the next time the district adopts a tax rate after the date the disaster occurs.

Amendment No. 22 - Grant

Amend SB 621, Sec. 26.07(b)(2) on page 118 as follows:

1. Strike "by 10,000 qualified voters or" on line 9 and substitute "by 15,000 qualified voters or"

2. Strike "10" on line 10 and substitute "15"

Amend SB 621, Sec. 26.08(b)(2) on page 120, as follows:

1. Strike "by 10,000 qualified voters or" on line 18 and substitute "by 15,000 qualified voters or"

2. Strike "10" on line 20 and substitute "15"

Amendment No. 23 - Peveto

Amend S.B. No. 621 by striking all above the enacting clause and substituting the following:

A BILL TO BE ENTITLED
AN ACT

relating to ad valorem taxation of property.

Amendment No. 24 - Peveto

Amend S.B. No. 621, third reading, as follows:

1. Strike Section 26.02 on page 112 and substitute the following:

Section 26.02. ASSESSMENT RATIOS PROHIBITED. Except as provided by Section 26.03 of this code, the assessment of property for taxation on the basis of a percentage of its appraised value is prohibited. All property shall be assessed on the basis of 100 percent of its appraised value.

2. On page 194, lines 14-16, strike the sentence beginning with "For" and substitute "Section 26.02 takes effect January 1, 1981."

Amendment No. 25 - Peveto

Amend S.B. No. 621, third reading, by striking line 22 on page 55 and substituting "exemption authorized by Section 11.11, 11.12, 11.14, 11.15, 11.16, or 11.25 of this".

The amendments were read.

Senator Jones of Taylor moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 15, Nays 14.

Yeas: Brooks, Clower, Doggett, Farabee, Jones of Harris, Jones of Taylor, Mauzy, Meier, Mengden, Ogg, Parker, Santiesteban, Schwartz, Truan, Vale.

Nays: Andujar, Blake, Braecklein, Creighton, Harris, Howard, Kothmann, Longoria, Moore, Patman, Price, Short, Traeger, Williams.

Absent: McKnight.

Absent-excused: Snelson.

MESSAGE FROM THE HOUSE

House Chamber
May 26, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HB 486, A bill to be entitled An Act relating to application of the workers' compensation law to farm and ranch laborers.

HB 1553, A bill to be entitled An Act relating to payments by certain municipally owned utilities to the municipalities owning them.

H.C.R. 219 Congratulating Mrs. Carolyn Donaldson on becoming an attorney at law

HB 2111, A bill to be entitled An Act relating to a sales and use tax exemption for student publications of public kindergartens and primary and secondary schools; amending Article 20.04, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended.

HB 757, A bill to be entitled An Act relating to prerelease arrangements for follow-up and outpatient care for a patient released from a state mental hospital.

HB 985, A bill to be entitled An Act relating to recommendations by community mental health and mental retardation centers of treatment alternatives for potential patients of state mental hospitals.

HB 1263, A bill to be entitled An Act relating to the fee for the maintenance of the child support office in certain counties.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.C.R. 58	**H.B. 239**	**H.B. 1355**	**H.B. 2206**
H.C.R. 112	**H.B. 309**	**H.B. 1456**	**H.B. 2214**
H.C.R. 170	**H.B. 448**	**H.B. 1463**	**H.B. 2220**
H.C.R. 189	**H.B. 543**	**H.B. 1483**	**H.B. 2237**
H.C.R. 190	**H.B. 620**	**H.B. 1502**	**H.B. 2240**
H.C.R. 208	**H.B. 621**	**H.B. 1566**	**H.B. 2243**
H.C.R. 211	**H.B. 798**	**H.B. 1730**	**H.B. 2256**
	H.B. 865	**H.B. 1742**	**H.B. 2264**
	H.B. 876	**H.B. 1777**	**H.B. 2265**
	H.B. 930	**H.B. 1863**	**H.B. 2268**
	H.B. 979	**H.B. 1990**	
	H.B. 1002	**H.B. 2104**	
	H.B. 1117	**H.B. 2115**	
	H.B. 1237	**H.B. 2175**	
	H.B. 1242	**H.B. 2184**	

HOUSE BILL 1773 ON SECOND READING

Senator Jones of Harris moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1773, Affecting the rights and duties of landlords and tenants; relating to a landlord's duty to repair certain conditions in a residential rental premises; providing for remedies of the tenant for landlord's failure to repair; imposing remedies for retaliation by tenants; imposing remedies for harassment by tenants

and landlords; waiver under limited conditions; relating to court jurisdiction and venue over actions under this Act; repeal of laws; and declaring an emergency.

The motion prevailed by the following vote: Yeas 23, Nays 5.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Meier, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Traeger, Truan, Vale, Williams.

Nays: Clower, Doggett, Mauzy, Schwartz, Short.

Absent: McKnight, Parker.

Absent-excused: Snelson.

The bill was read second time and was passed to third reading by the following vote: Yeas 23, Nays 6.

Yeas: Andujar, Blake, Braecklein, Brooks, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Meier, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Short, Traeger, Truan, Vale, Williams.

Nays: Clower, Creighton, Doggett, Mauzy, Price, Schwartz.

Absent: McKnight.

Absent-excused: Snelson.

MOTION TO PLACE HOUSE BILL 1773 ON THIRD READING

Senator Jones of Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1773** be placed on its third reading and final passage.

The motion was lost by the following vote (Not receiving four-fifths vote of the Members of the Senate present): Yeas 21, Nays 8.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Traeger, Vale, Williams.

Nays: Clower, Doggett, Longoria, Mauzy, Parker, Patman, Schwartz, Truan.

Absent: McKnight.

Absent-excused: Snelson.

COMMITTEE SUBSTITUTE HOUSE BILL 1918 ON THIRD READING

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

C.S.H.B. 1918, Relating to the allocation and use of certain cigarette tax revenue.

Question - Shall the bill be again finally passed?

Senator Schwartz offered the following amendment to the bill:

Amend H.B. No. 1918 by striking all below the enacting clause and substituting the following:

SECTION 1. Article 7.06(3), Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

(3) The net revenue derived from the tax levied under this Article shall be allocated as follows:

(a) Fifty cents of the tax levied under this Article on each 1,000 cigarettes shall be credited to the State Parks Fund and [~~a new special fund known as the Texas Parks Fund which~~] may be used by the Parks and Wildlife Department for the operation, maintenance, acquisition, planning, and development of state parks and historic sites. In any year not more than 25 percent of the revenue credited to the State Parks Fund under this Article may be used for the operation and maintenance of State parks and historic sites. Provided, no portion of the revenues allocated under this subsection shall be set aside to any fund for the administration and enforcement of the cigarette tax law of this State. Provided, further, the revenues allocated under this subsection may be credited daily to the Omnibus Clearance Fund hereafter referred to in this Act and on the first day of each month following the collection of the revenues allocated under this subsection, the said revenues shall be credited to the State [~~Texas~~] Parks Fund, except that the revenues allocated under this subsection during the month of August of each year shall be credited to the State [~~Texas~~] Parks Fund on the thirty-first day of August of each year; it being specifically understood that no portion of the said revenues subsection shall be set aside to any fund for the administration under the provisions governing the said Clearance Fund.

(b) For the period beginning on September 1, 1979, and extending through August 31, 1983, only, fifty cents of the tax levied under this Article on each 1,000 cigarettes shall be credited to the Texas Local Parks, Recreation, and Open Space Fund. Provided, no portion of the revenues allocated under this subsection shall be set aside to any fund for the administration and enforcement of the cigarette tax law of this State. Provided, further, the revenues allocated under this subsection may be credited daily to the Omnibus Clearance Fund hereafter referred to in this Act and on the first day of each month following the collection of the revenues allocated under this subsection, the said revenues shall be credited to the Texas Local Parks, Recreation, and Open Space Fund except that the revenues allocated under this subsection during the month of August of each year shall be credited to the Texas Local Parks, Recreation, and Open Space Fund on the thirty-first day of August of each year; it being specifically understood that no portion of the said revenues allocated under this subsection shall remain or be distributed under the provisions governing the said Clearance Fund.

(c) [~~(b)~~] The remaining net revenue derived from the tax levied under this Article after allocating the amounts [~~amount~~] specified in Subsections (a) and (b) [~~Subsection (a)~~] of this Section shall be credited to the General Fund of this State. Provided, no portion of the revenues allocated under this subsection shall be set aside to any fund for the administration and enforcement of the cigarette tax law of this State. Provided, further, the revenues allocated under this subsection may be credited daily to the Omnibus Clearance Fund hereafter referred to in this Act and on the first day of each month following the collection

of the revenues allocated under this subsection, the said revenues shall be credited to the General Fund, except that the revenues allocated under this subsection during the month of August of each year shall be credited to the General Fund on the thirty-first day of August of each year; it being specifically understood that no portion of the said revenues allocated under this subsection shall remain or be distributed under the provisions governing the said Clearance Fund.

SECTION 2. Money credited to the Texas parks fund is transferred to the state parks fund. An appropriation to the Parks and Wildlife Department for the biennium beginning on September 1, 1979, from the Texas parks fund is an appropriation from the state parks fund. This section expires on August 31, 1981.

SECTION 3. The sums credited to the Texas local parks, recreation, and open space fund during the biennium beginning September 1, 1979, are appropriated to the Parks and Wildlife Department for the purpose of carrying out Chapter 24, Parks and Wildlife Code, as amended. However, no more than $410,000 of the Texas local parks, recreation, and open space fund may be spent in each fiscal year of the biennium beginning September 1, 1979, to administer the fund.

SECTION 4. The Parks and Wildlife Department shall expend at least $8,000,000 from the State Parks Fund for park operations and maintenance during the biennium beginning September 1, 1979 and the General Revenue appropriation to the Department for the biennium beginning September 1, 1979 contained in **H.B. 558**, Acts of the 66th Legislature is hereby reduced by $8,000,000. In addition to any other sums appropriated from the State Parks Fund for park operations and maintenance, there is hereby appropriated $2,600,000 from the State Parks Fund for park operations and maintenance for the biennium beginning September 1, 1979. Appropriations contained in **H.B. 558**, Acts of the 66th Legislature to the Parks and Wildlife Department for Park Acquisition for the fiscal year beginning September 1, 1979 are hereby reduced to $7,143,189.

SECTION 5. Section 2, H.B. No. 233, Acts of the 66th Legislature, Regular Session, 1979, is repealed.

SECTION 6. This Act takes effect September 1, 1979.

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.

The amendment was read and was adopted by unanimous consent.

On motion of Senator Traeger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was again finally passed.

HOUSE BILL 39 ON SECOND READING

Senator Truan moved to suspend the regular order of business to take up for consideration at this time:

H.B. 39, Relating to statewide juvenile services and probation; making changes in the name, membership, administration, powers, and duties of the Texas Adult Probation Commission; providing state-aid.

The motion prevailed by the following vote: Yeas 21, Nays 8.

Yeas: Blake, Braecklein, Brooks, Clower, Doggett, Howard, Jones of Harris, Kothmann, Longoria, Mauzy, Meier, Mengden, Ogg, Parker, Patman, Santiesteban, Schwartz, Traeger, Truan, Vale, Williams.

Nays: Andujar, Creighton, Farabee, Harris, Jones of Taylor, Moore, Price, Short.

Absent: McKnight.

Absent-excused: Snelson.

The bill was read second time.

Senator Truan offered the following committee amendment to the bill:

Amend **H.B. 39** Section 4.07 as follows:

Applicability. The provisions of this subchapter relating to state aid do not apply to juvenile boards until September 1, ~~1980~~ 1981.

The committee amendment was read and was adopted.

RECORD OF VOTES

Senators Moore and Creighton asked to be recorded as voting "Nay" on the adoption of the committee amendment.

Senator Truan offered the following committee amendment to the bill:

Amend H.B. No. 39 by striking all between the enacting clause and "SUBCHAPTER A. GENERAL PROVISIONS" and substituting the following:

SECTION 1. Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Article 5143g to read as follows:

Art. 5143g. TEXAS JUVENILE PROBATION COMMISSION

The committee amendment was read and was adopted.

(Senator Jones of Harris in Chair)

Senator Farabee offered the following amendment to the bill:

Amend **H.B. 39** by striking all below the enacting clause and substituting the following:

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1.01. PURPOSES. The purposes of this article are to make probation services available throughout the state for juveniles, to improve the effectiveness of probation services, to provide alternatives to the commitment of juveniles by providing financial aid to juvenile boards for the establishment and improvement of probation services, and to establish uniform probation administration standards.

Sec. 1.02. DEFINITION. In this article:

(1) "Commission" means the Texas Juvenile Probation Commission.

(2) "Council" means the Texas Youth Council.

(3) "Juvenile Board" means the body established by general or special law to provide juvenile probation services to each county.

(4) "Employee in the Criminal Justice System" means a person employed as a peace officer, county attorney, district attorney, probation officer, parole officer, corrections officer, any person employed by a court, or any person employed by an agency or institution, either public or private, where children may be committed under the family code.

SUBCHAPTER B. Texas Juvenile Probation Commission

Sec. 2.01. CREATION. The Texas Juvenile Probation Commission is hereby created.

Sec. 2.02. MEMBERSHIP. The Commission shall consist of three judges of the district courts of Texas, three citizens of Texas who are not employed in the criminal justice system, and three juvenile probation officers to be appointed by the Chief Justice of the Supreme Court of Texas. All of the judges on the Commission shall, at the time of their appointment, be presiding judges over courts designated by at least one county in their district as a juvenile court except that in counties wherein exists a system of rotating the juvenile court among the several district courts, any of the district court judges may be eligible to serve on the commission.

Sec. 2.03. TERMS OF OFFICE. (a) Members of the Commission serve staggered terms of six years each.

(b) If any judicial member of the Commission ceases to hold a judicial office, or a citizen member resigns or expires or any juvenile probation officer ceases to hold his office, the Chief Justice shall appoint another member to serve the remainder of the unexpired term.

Sec. 2.04. CHAIRMAN. (a) The members of the Commission shall elect a chairman from among its members.

(b) The chairman of the Commission shall serve for a term of two years.

Sec. 2.05. EXPENSES. Members of the Commission are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing their official duties as Commission members.

Sec. 2.06. MEETINGS. (a) The Chief Justice of the Supreme Court of Texas shall call the first meeting of the Commission in September, 1979.

(b) The Commission shall hold regular quarterly meetings each year on dates fixed by the Commission and such special meetings as the Commission determines necessary.

(c) The Commission shall make rules providing for the regulation of its proceedings and for the holding of special meetings.

(d) Seven members of the Commission shall constitute a quorum.

(e) The Commission shall keep a public record of its decisions at its general office.

Sec. 2.07. EXPIRATION. Unless continued by law, the Commission is abolished and this article expires effective September 1, 1987.

SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION AND COUNCIL.

Sec. 3.01. STANDARDS FOR JUVENILE BOARDS, PROBATION OFFICERS, AND FACILITIES.

The Commission shall promulgate reasonable rules for juvenile boards and probations officers:

(1) Establishing minimum standards for case loads, programs, facilities, and equipment, and other aspects of the operation of a juvenile board necessary for the provision of adequate and effective probation services; and

(2) Establishing a code of ethics for probation officers and providing for the enforcement thereof.

Sec. 3.02. RECORDS AND REPORTS. The Council shall require each juvenile board in Texas to:

(1) Keep such financial and statistical records as the Council deems necessary; and

(2) Submit periodic financial and statistical reports to the Council.

Sec. 3.03. GIFTS AND GRANTS. The Council may apply for and accept gifts or grants from any public or private source for use in maintaining and improving probation services in Texas.

Sec. 3.04. INTERGOVERNMENTAL COOPERATION. The Council may cooperate and contract with the federal government, with governmental agencies in Texas and other states, and with political subdivisions of Texas to improve probation services.

Sec. 3.05. INSPECTIONS, AUDITS. The Council may inspect and evaluate any juvenile board and conduct audits of financial records at any reasonable time to determine compliance with the Commission's rules, regulations, or standards.

Sec. 3.06. STUDIES. The Commission and Council may conduct or participate in studies of corrections methods and systems, and treatment and therapy programs.

Sec. 3.07. ANNUAL REPORT. The Council shall make a report to the governor and to the legislature each year covering its operations and the condition of probation services in Texas during the previous year and making whatever recommendations it considers desirable.

Sec. 3.08. DEPOSIT OF MONEY. All money received by the Council under Sec. 3.03 of this Article shall be deposited to the credit of a special fund for juvenile boards which shall be appropriated from the general revenue fund for the payment of state-aid by this Article and for the administration of this Article.

SUBCHAPTER D. STATE-AID TO JUVENILE BOARDS

Sec. 4.01. STATE-AID DEFINED. "State-Aid" means funds allocated by the Council for financial assistance to juvenile boards to achieve the purpose of this Article as stated previously in section 1.01 of this Article and to conform to the standards and policies promulgated by the Commission.

Sec. 4.02. DETERMINATION OF AMOUNT. The Legislature shall determine and appropriate the amount of state-aid necessary to maintain and improve statewide juvenile probation services commensurate with the purposes as stated in section 1.01 of this Article. Funding for juvenile services shall be based on juvenile population.

Sec. 4.03. DATA FOR STATE-AID. The juvenile board of each county shall present data to the Council, determined by the Council, which is necessary to determine the amount of state financial aid needed for use in maintaining and improving probation services.

Sec. 4.04. REPORTS. A juvenile board receiving state-aid shall submit reports as required by the Council.

Sec. 4.05. PAYMENT OF STATE-AID. (a) When the Council determines that a juvenile board complies with the standards established by the Commission, the Council shall prepare and submit to the Comptroller of Public Accounts a voucher for payment to the juvenile board of the amount of state-aid to which it is entitled.

(b) The fiscal officer designated for the juvenile board shall deposit all state-aid received under this article into a special fund to be used solely by the juvenile boards for the provision of juvenile probation services.

Sec. 4.06. REFUSAL OR SUSPENSION OF STATE-AID. The Council shall refuse or suspend payment of state-aid to any juvenile board that fails to comply with the Commission standards. The Council shall provide for notice and a hearing in cases in which it refuses or suspends state-aid.

Sec. 4.07. APPLICABILITY. The provisions of this subchapter relating to state-aid do not apply to juvenile boards until September 1, 1980.

Section 2. This act takes effect on September 1, 1979.

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.

The amendment was read.

(President in Chair)

Senator Truan moved to table the amendment.

The motion to table was lost by the following vote: Yeas 14, Nays 15.

Yeas: Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Mengden, Ogg, Parker, Patman, Santiesteban, Truan, Vale, Williams.

Nays: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, Meier, Moore, Price, Schwartz, Short, Traeger.

Absent: McKnight

Absent-excused: Snelson.

Question recurring on the adoption of the amendment, the amendment failed of adoption by the following vote: Yeas 14, Nays 15.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Taylor, Meier, Moore, Schwartz, Short, Traeger.

Nays: Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Mengden, Ogg, Parker, Patman, Price, Santiesteban, Truan, Vale, Williams.

Absent: McKnight.

Absent-excused: Snelson.

On motion of Senator Truan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by the following vote: Yeas 19, Nays 10.

Yeas: Brooks, Clower, Doggett, Howard, Jones of Harris, Kothmann, Longoria, Mauzy, Meier, Mengden, Ogg, Parker, Patman, Santiesteban, Schwartz, Traeger, Truan, Vale, Williams.

Nays: Andujar, Blake, Braecklein, Creighton, Farabee, Harris, Jones of Taylor, Moore, Price, Short.

Absent: McKnight.

Absent-excused: Snelson.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and filed with the Secretary of the Senate:

Austin, Texas
May 26, 1979

TO THE SENATE, SIXTY-SIXTH LEGISLATURE; REGULAR SESSION:

Pursuant to the provisions of Article III, Section 5, of the Constitution of Texas, I herewith submit as an emergency matter the following:

1). Senate Bill 830 by Brooks, which relates to a demonstration project for medical assistance to certain medically needy persons.

2). Senate Bill 588 by Braecklein, which relates to fees allowed to sheriffs and constables.

3). Senate Bill 502 by Ogg, which relates to the establishment of a licensing procedure for food, drug and cosmetic salvage brokers and establishments.

Respectfully submitted,

/s/W. P. Clements, Jr.
Governor

LEAVE OF ABSENCE

Senator Howard was granted leave of absence for the remainder of today on account of illness on motion of Senator Meier.

HOUSE BILL 40 ON SECOND READING

Senator Truan asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 40, Relating to the powers and duties of juvenile boards and the establishment of a juvenile board in counties where none exists and to standards for juvenile probation officers and personnel.

There was objection.

Senator Truan then moved to suspend the regular order of business and take up **H.B. 40** for consideration at this time.

The motion prevailed by the following vote: Yeas 20, Nays 8.

Yeas: Braecklein, Brooks, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Meier, Mengden, Ogg, Parker, Patman, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Andujar, Blake, Creighton, Farabee, Harris, Jones of Taylor, Moore, Price.

Absent: McKnight.

Absent-excused: Howard, Snelson.

The bill was read second time and was passed to third reading by the following vote: Yeas 21, Nays 7.

Yeas: Braecklein, Brooks, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Meier, Mengden, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale, Williams.

Nays: Andujar, Blake, Creighton, Farabee, Harris, Jones of Taylor, Moore.

Absent: McKnight.

Absent-excused: Howard, Snelson.

MOTION TO PLACE HOUSE BILL 2201 ON SECOND READING

Senator Meier moved to suspend the regular order of business to take up for consideration at this time:

H.B. 2201, Relating to the Texas College of Osteopathic Medicine.

The motion was lost by the following vote: Yeas 11, Nays 15.

Yeas: Blake, Brooks, Doggett, Jones of Taylor, Meier, Mengden, Ogg, Patman, Truan, Vale, Williams.

Nays: Braecklein, Clower, Creighton, Farabee, Harris, Jones of Harris, Kothmann, Longoria, Mauzy, Moore, Parker, Price, Schwartz, Short, Traeger.

Absent: Andujar, McKnight, Santiesteban.

Absent-excused: Howard, Snelson.

COMMITTEE SUBSTITUTE HOUSE BILL 758 ON SECOND READING

Senator Vale asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 758, Relating to the exemption of tourist trade centers from the law against selling certain items on both Saturday and Sunday.

There was objection.

Senator Vale then moved to suspend the regular order of business and take up **C.S.H.B. 758** for consideration at this time.

The motion prevailed by the following vote: Yeas 22, Nays 2.

Yeas:., Blake, Braecklein, Clower, Creighton, Doggett, Farabee, Harris, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, Meier, Mengden, Ogg, Parker, Patman, Price, Schwartz, Traeger, Truan, Vale.

Nays: Short, Williams.

Absent: Andujar, Brooks, McKnight, Moore, Santiesteban.

Absent-excused: Howard, Snelson.

The bill was read second time and was passed to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 758 ON THIRD READING

Senator Vale moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 758** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 22, Nays 2. (Same as previous roll call)

The bill was read third time and was passed.

HOUSE BILL 1890 ON SECOND READING

On motion of Senator Doggett and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1890, Amending the Lower Colorado River Authority Act, Chapter 7, Acts of the 43rd Legislature, 4th Called Session, 1934, as amended (Article 8280-107, Vernon's Texas Civil Statutes), by adding a new Section 18A; relating to the authority which may be exercised by the Lower Colorado River Authority with regard to certain property; and declaring an emergency.

The bill was read second time and was passed to third reading.

MOTION TO PLACE HOUSE BILL 1890 ON THIRD READING

Senator Doggett moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1890** be placed on its third reading and final passage.

The motion was lost by the following vote (Not receiving four-fifths vote of the Members of the Senate present): Yeas 20, Nays 8.

Yeas: Andujar, Blake, Brooks, Clower, Doggett, Jones of Harris, Kothmann, Longoria, Mauzy, Mengden, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Traeger, Truan, Vale.

Nays: Braecklein, Creighton, Farabee, Harris, Jones of Taylor, Meier, Moore, Williams.

Absent: McKnight.

Absent-excused: Howard, Snelson.

SENATE RULE 74a SUSPENDED

On motion of Senator Ogg and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendment to **S.B. 662.**

SENATE BILL 662 WITH HOUSE AMENDMENT

Senator Ogg called **S.B. 662** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Henderson, Lauhoff

Substitute the following for S.B. No. 662:

A BILL TO BE ENTITLED

AN ACT

relating to powers, duties, and administration of metropolitan transit authorities.

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

SECTION 1. Subsection (e), Section 4, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(e)(1) Any member of the board may be removed from office by a majority vote of the remaining members of the board for inefficiency, neglect of duty or malfeasance in office; provided, however, that the board shall furnish to such member a statement in writing of the nature of the charges as grounds for such removal, and [~~which shall become final unless~~] the member, before the 11th day after receipt of the statement, may request [~~within 10 days, requests~~] a hearing before the board and opportunity to be heard in person or through counsel. After any such hearing, if the board by a majority vote finds that the charges are true, it shall confirm its decision to remove the member [~~then its decision shall be final~~].

(2)(i) In addition to the method of removal of board members provided by Subdivision (1) of this subsection, board members of an authority whose principal city has a population of more than 1,200,000, according to the most recent federal census, are subject to removal by the recall procedure provided by this subdivision.

(ii) The registered voters of the authority by petition may require that an election be held to determine whether a member of the board is to be removed from office. A petition is valid if it states that it is intended to require an election in the authority on the question of removing an identified board member, it is signed by registered voters equal in number to at least 25 percent of the number of persons who voted in the most recent election for county judge of the most populous county in which the authority is located, and it is submitted to the board before the first day of the final six months of the term of the member whose removal is sought.

(iii) The registered voters of an appointing authority area, whether principal city, county, or any city or combination of cities whose mayors constitute a mayoral appointment board, may file a petition for removal of a board member with the city council of the city whose mayor appointed the member, with the commissioners court that appointed the member, or with the mayoral appointment board that appointed the member, as the case may be. To be valid, the petition must identify the board member whose removal is sought

and be signed by at least eight percent of the registered voters within the appointing authority area. The city council, commissioners court, or mayoral appointment board shall determine the validity of the petition and conduct a hearing on the question of removal, at which time the board member may be heard in person or by counsel. After a hearing, the appointing authority may by majority vote remove the board member and declare the board position vacant if it determines that cause for removal for inefficiency, neglect of duty, or malfeasance in office exists.

(iv) A person who is removed from board membership under this subdivision may appeal the removal to the district court in the most populous county, according to the most recent federal census, in which the principal city is located by filing a petition for review not later than 15 days after the day of removal. The petitioner is suspended from membership on the board during the appeal. The court shall review the removal by trial de novo to determine if cause for removal for inefficiency, neglect of duty, or malfeasance in office exists. If the court determines that cause for removal for inefficiency, neglect of duty, or malfeasance in office exists, the petitioner is removed; otherwise, the petitioner shall be ordered reinstated.

(v) A member removed under this subdivision is not eligible for reappointment to fill the vacancy and is not eligible for appointment to any other position on the board for a length of time after the day of reoval equal to the length of a normal term of a member of the board.

SECTION 2. Subsection (c), Section 6B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The terms of office of all members of the board appointed after the confirmation and tax election are four [~~two~~] years, except that in order to provide staggered terms, the terms of office of one-half of the first members appointed by an appointing agency after the election, if an even number is to be appointed by the agency, and a bare majority of the first members appointed by an agency, if an odd number greater than one is to be appointed by the agency, are two years [~~one year~~]. In addition, the appointing agency may shorten the initial terms to make the expiration dates coincide with those of the previously existing positions. To be eligible for appointment to the board, a person must be a qualified voter residing within the boundaries of the authority.

SECTION 3. Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Section 4A to read as follows:

Sec. 4A. REMOVAL OF BOARD MEMBERS BY RECALL IN AN AUTHORITY WHOSE PRINCIPAL CITY'S POPULATION EXCEEDS 1,200,000. (a) In addition to the methods of removal of board members provided by Section 4(e) of this Act, board members of an authority whose principal city has a population of more than 1,200,000, according to the most recent federal census, are subject to removal by the recall procedure provided by this section.

(b) The qualified voters of the authority by petition may require that an election be held to determine whether a member of the board is to be removed from office. A petition is valid if it states that it is intended to require an election in the authority on the question of removing an identified board member, it is signed by qualified voters equal in number to at least 25 percent of the number of persons who voted in the most recent election for county judge of the most populous county in which the authority is located, and it is submitted to the board before the first day of the final six months of the term of the member whose removal is sought.

(c) After receiving a petition, the board shall submit it to the secretary of state, who, not later than the 10th day after the day he or she receives the petition, shall determine whether or not the petition is valid and shall notify the board of the finding. If the secretary of state fails to act within the time allowed, the petition is treated as if it had been found valid.

(d) If the board receives notice that the petition is valid or if the secretary of state has failed to act within the time allowed, the board shall order that an election be held in the authority on a date not fewer than 25 nor more than 35 days after the last day on which the petition could have been approved or disapproved. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "The removal of (name of officer) from the rapid transit authority board by recall."

(e) If a majority of the qualified voters voting on the question in the election favor the proposition, the member is removed, and the office immediately becomes vacant. The appointing authority that appointed the member removed by recall shall fill the vacancy not later than the 30th day after the day of removal.

(f) A member removed by recall is not eligible for reappointment to fill the vacancy and is not eligible for appointment to any other position on the board for a length of time after the day of removal equal to the length of a normal term of a member of the board.

(g) A member named in a removal petition that is submitted to the board may not participate in the performance of any official duties prescribed by this section or in the administration of the recall election.

SECTION 4. Subsections (e), (g), and (h), Section 5, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), are amended to read as follows:

(e) Except as otherwise provided in this Act, notice of the election shall be given in accordance with the general election laws. The notice of the election shall include a description of the nature and rate of the proposed tax. A copy of the notice of the election and any other election held under the provisions of this Act shall be furnished to the State Department of Highways and Public Transportation [~~Texas Mass Transportation Commission~~] or its successor and to the comptroller of public accounts.

(g) Immediately after the election, the presiding judge of each election precinct shall return the results to the board, which shall canvass the returns and declare the results separately with respect to each unit of election. In those units of election where a majority of the votes cast is in favor of the confirmation of the creation of the authority and the levy of the proposed tax, the authority shall continue to exist and be comprised of those units. In those units of election where a majority of the votes cast is against the confirmation of the creation of the authority and the levy of the proposed tax, the authority shall cease to exist. Unless the vote is favorable in the unit of election which includes the principal city, the authority shall cease to exist in its entirety. If the votes cast are such that the authority will continue to exist, the board shall enter the results on its minutes and adopt an order declaring that the creation of the authority is confirmed and describing the territory which comprises the authority. A certified copy of the order shall be filed with the State Department of Highways and Public Transportation [~~Texas Mass Transportation Commission~~] or its successor, with the comptroller of public accounts, and in the deed records of each county in which the authority is located. The order shall include the ate of the election, the proposition voted on, the number of votes cast for and against the

proposition in each election unit, and the number of votes by which the proposition was approved in each election unit in which it was approved, and shall be accompanied by a map of the authority clearly showing the boundaries of the authority.

(h) If the votes cast at the confirmation and tax election are such that the authority ceases to exist in its entirety, the board shall enter an order so declaring and file a certified copy of the order with the State Department of Highways and Public Transportation [~~Texas Mass Transportation Commission~~] or its successor and with the comptroller of public accounts, and the authority shall be dissolved.

SECTION 5. Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Section 5A to read as follows:

Sec. 5A. ELECTION CONTEST. (a) If the validity of any election held under authority of this Act or the result of the election based on the returns thereof shall be contested, the election contest shall be filed and tried as provided in the Texas Election Code, as amended; provided that the contestant shall notify the comptroller of public accounts by United States registered or certified mail within 10 days after filing the contest by mailing a copy of the notice of the contest to the comptroller, showing the style of the contest, the date filed, the case number, and the court in which the case is pending; and provided further that no such contest shall be heard unless the comptroller is timely notified as provided in this subsection.

(b) Upon the issuance of an order enjoining the levy and collection of a local sales and use tax based upon allegations of improprietis in the conduct of the election by any court having jurisdiction over election contests as provided in the Texas Election Code, as amended, the date upon which the local sales and use tax shall become effective in any authority as a result of the election shall be suspended. If such injunction shall be dissolved or otherwise terminate, the presiding officer of the board shall so notify the comptroller by United States registered or certified mail and shall enclose a certified copy of the order of dissolution or termination, and the comptroller shall place in effect the tax in the authority, substituting the date of the order of dissolution or termination for the notice of the result of the election.

SECTION 6. Subsections (d), (f), and (h), Section 6, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), are amended to read as follows:

(d) The authority may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease or dispose of, real and personal property of every kind and nature whatsoever, and licenses, patents, rights and interests necessary, convenient or useful for the full exercise of any of its powers pursuant to the provisions of this Act. Before an authority acquires an interest in real property for more than $20,000, the board of the authority shall cause the property to be appraised by two appraisers working independently of each other.

(f) In the event the authority, in exercising any of the powers conferred by this Act, makes necessary the relocation, adjustment, raising, lowering, rerouting or changing the grade of or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad track, bridge or other facilities or properties, any electric lines, conduits or other facilities or properties, any telephone or telegraph lines, conduits or other facilities or properties, any gas transmission or distribution pipes, pipelines, mains or other facilities or properties, any water, sanitary sewer or storm sewer pipes, pipelines, mains or other facilities or properties, any cable television lines, cables, conduits or other facilities or properties, or any other pipelines and any facilities or properties relating thereto, any and all such relocations, adjustments, raising, lowering,

rerouting or changing of grade or altering of construction shall be accomplished at the sole cost and expense of the authority, and all damages which may be suffered by the owners of such property or facilities shall be borne by the authority.

(h) Eminent domain proceedings brought by the authority shall be governed by the provisions of Title 52, Eminent Domain, Revised Civil Statutes of Texas, 1925, as they now exist or hereafter may be amended, insofar as such provisions are not inconsistent with this Act. Proceedings for the exercise of the power of eminent domain shall be commenced by the adoption by the board of a resolution declaring the public necessity for the acquisition by the authority of the property or interest therein described in the resolution, and that such acquisition is necessary and proper for the construction, extension, improvement or development of the system and is in the public interest. The resolution of the authority shall be conclusive evidence of the public necessity of such proposed acquisition and that such real or personal property or interest therein is necessary for public use. At least 30 days before adopting a resolution under this subsection, however, a board shall hold a public hearing on the question of acquisition of the property or interest for which eminent domain proceedings are being considered. The board shall hold the hearing at a place convenient to residents of the area in which the property is located. The board shall cause notice of the hearing to be published in a newspaper of general circulation in the county in which the property is located at least once each week for two weeks before the date of the hearing.

SECTION 7. Subsection (e), Section 6A, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(e)(1) At the time territory is added to an authority under the provisions of this section, any tax other than a local sales and use tax which the board of the authority has already been authorized to levy applies to the added territory.

(2) If an authority in which a local sales and use tax has been imposed changes or alters its boundaries, the presiding officer of the board shall forward to the comptroller of public accounts by United States registered or certified mail a certified copy of the order adding or detaching territory to or from the authority or of the order canvassing the returns and declaring the result of the election. The order shall include the effective date of the tax and shall be accompanied by a map of the authority clearly showing the territory added or detached.

(3) Upon receipt of the order and map, the tax imposed by Section 11B of this Act shall be effective in the added territory on the first day of the next succeeding quarter. However, unless the added territory is comprised of an incorporated city which levies and collects a sales and use tax under the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), if the comptroller notifies the presiding officer of the board in writing within ten days after receipt of the order and map that he or she requires more time, the comptroller shall be entitled to delay implementation one whole calendar quarter. Thereafter, the tax shall be effective in the added territory following the elapsed quarter.

SECTION 8. Section 7, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Subsection (i) to read as follows:

(i) Notwithstanding the provisions of this section, an authority, acting by board order or resolution, has the power to issue short-term bonds or notes secured by revenues or taxes for any purpose, provided that the repayment of the bonds or notes must be satisfied out of revenues or taxes received during the

period from the date of issuance to the last day of the fiscal year in which the bonds or notes are issued. Any such short-term bonds or notes need not be approved by the attorney general nor registered by the comptroller of public accounts.

SECTION 9. Subsection (d), Section 6C, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) Any station or terminal complex shall include adequate provisions for the transfer of passengers between the various modes of transportation available to the complex. A complex may include provisions for commercial, residential, recreational, institutional, and industrial facilities, except that no land or interst [~~lands or interests~~] in land that is more than 1,500 feet in distance from the center point of the complex or that has not been included in a master plan of development adopted by the board may be acquired for the facilities. Land or an interest in land more than 1,500 feet in distance from the center point of the complex may not be acquired by eminent domain proceedings, and the board shall designate the center point prior to the commencement of eminent domain proceedings. If a proposed station or terminal complex is to be located within the city limits or extraterritorial jurisdiction of a city or town, the governing body of the city or town must approve the location of the complex as to conformity with the comprehensive or general plan of the city or town by motion, resolution, or ordinance duly adopted.

SECTION 10. Section 11A, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Subsections (e), (f), (g), and (h) to read as follows:

(e) The board of an authority by order may call an election to increase or decrease the local sales and use tax rate. In addition, the qualified voters of an authority by petition may require that an election be held on the question of increasing the tax rate. A petition is valid if it is signed by qualified voters of the authority equal in number to at least 10 percent of the number of registered voters of the authority according to the most recent official list of registered voters.

(f) After receiving a petition, the board shall submit the petition to the secretary of state for validation. The secretary of state shall rule on the validity of the petition not later than the 30th day after the day he or she receives the petition and shall notify the board of the ruling. If the secretary of state finds the petition valid or fails to act within the time allowed, the board shall call an election. The authority shall pay the costs of determining the validity of a petition, if any, and of the election.

(g) At the election, the ballots shall be prepared to permit voting for or against the following proposition: "The increase (decrease) of the local sales and use tax rate to (percentage)." Election units for an election to increase or decrease the tax rate are the same as the units that confirmed the existence of the authority and approved the tax in the election held as provided by Section 5 of this Act, except as modified by annexations to the authority. A notice of the election and a certified copy of the order canvassing the election results shall be sent to the State Department of Highways and Public Transportation or its successor and the comptroller of public accounts and shall be filed in the deed records of each county in which the authority is located in the same manner as provided for a confirmation and tax election by Section 5 of this Act.

(h) If there is an increase or decrease in the rate of a local sales and use tax already levied, the new rate takes effect on the first day of the next calendar quarter after actual notification to the comptroller of public accounts. However,

if the comptroller notifies the presiding officer of the board in writing within 10 days after receipt of the order that he or she requires more time to implement collection and reporting procedures, the comptroller may delay implementation for one whole calendar quarter. Thereafter, the new tax rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

SECTION 11. Subsection (A), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(A) Subject to approval at a tax election in accordance with this Act, the board of an authority shall be authorized to levy, collect and impose a local sales and use tax for the benefit of the authority, the sales tax portion of which shall not exceed one percent on receipts from the sale at retail of all taxable items within the authority area which are subject to taxation under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted and as heretofore or hereafter amended. The provisions of this section shall be applicable to the levy, imposition and collection of such tax. The permissible rates for a local sales and use tax levied under this Act are:

(1) one-quarter of one percent;

(2) one-half of one percent;

(3) three-quarters of one percent; and

(4) one percent.

SECTION 12. Subdivision (e), Subsection (B), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The following provisions shall govern the collection by the comptroller of the tax imposed by this Act:

(1) All applicable provisions contained in the Limited Sales, Excise and Use Tax Act or in Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, shall apply to the collection of the tax imposed by this Act, except as modified in this Act.

(2) The provisions contained in Section 6 of the Local Sales and Use Tax Act shall apply to the levy, imposition and collection of the tax imposed by this Act except as modified herein.

(3) The penalties provided in the Limited Sales, Excise and Use Tax Act for violations of that Act and the penalties provided in Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, for violation of that title, are hereby made applicable to violations of this Act.

(4) The sales and use tax collected by the comptroller under this Act shall be deposited, held, accounted for and transmitted for the authority as provided in Section 7 of the Local Sales and Use Tax Act.

SECTION 13. Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Section 12A to read as follows:

Sec. 12A. MANAGEMENT OF REGIONAL TRANSIT AUTHORITY IN A METROPOLITAN AREA WHOSE PRINCIPAL CITY'S POPULATION EXCEEDS 1,200,000. (a) The responsibility for the management, operation, and control of the properties belonging to an authority whose principal city has a population of more than 1,200,000, according to the most recent federal census, shall be vested in its board. Except as provided by Section 12C of this Act, the board:

(1) may employ all persons, firms, partnerships, or corporations deemed necessary by the board for the conduct of the affairs of the authority, including, but not limited to, a general manager, bookkeepers, auditors, engineers, attorneys, financial advisors, and operating or management companies, and

prescribe the duties, tenure, and compensation of each. All employees may be removed by the board;

(2) may become a subscriber under the Texas Workers' Compensation Act with any old-line legal-reserve insurance company authorized to write policies in the State of Texas;

(3) may adopt a seal for the authority;

(4) may invest funds of the authority in direct or indirect obligations of the United States, the state, or any county, city, school district, or other political subdivision of the state;

(5) by resolution may provide that an authorized representative of the authority may invest and reinvest the funds of the authority and provide for money to be withdrawn from the appropriate accounts of the authority for the investments on such terms as the board considers advisable;

(6) may fix the fiscal year for the authority;

(7) shall have prepared an annual audit of its financial affairs by an independent certified public accountant or a firm of independent certified public accountants which shall be open to public inspection; and

(8) by resolution may authorize a designated representative to supervise the substitution of securities pledged to secure the authority's funds.

(b) The board shall contract with a person not otherwise employed by the authority for a performance audit of the operations of the authority. The person who conducts the audit must have demonstrated expertise in effective and accurate conduct of reviews of transit organizations in functional areas relevant in determining effectiveness and efficiency of operations. An audit must include a review of policy, procedures, performance, and planning for each function of the authority. A performance audit must be conducted in each of the first five fiscal years beginning on or after September 1, 1979, and for every second year subsequently.

SECTION 14. Section 12, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. MANAGEMENT OF REGIONAL TRANSIT AUTHORITY IN A METROPOLITAN AREA WHOSE PRINCIPAL CITY'S POPULATION DOES NOT EXCEED 1,200,000. The responsibility for the management, operation and control of the properties belonging to an authority whose principal city has a population of 1,200,000 or less, according to the most recent federal census, shall be vested in its board. The board may:

(a) employ all persons, firms, partnerships or corporations deemed necessary by the board for the conduct of the affairs of the authority, including, but not limited to, a general manager, bookkeepers, auditors, engineers, attorneys, financial advisors and operating or management companies, and prescribe the duties, tenure and compensation of each. All employees may be removed by the board;

(b) become a subscriber under the Texas Workmen's Compensation Act with any old-line legal-reserve insurance company authorized to write policies in the State of Texas;

(c) adopt a seal for the authority;

(d) invest funds of the authority in direct or indirect obligations of the United States, the state, or any county, city, school district or other political subdivision of the state; funds of the authority may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the State of Texas; the board, by resolution, may provide that an authorized representative of the authority may invest and reinvest

the funds of the authority and provide for money to be withdrawn from the appropriate accounts of the authority for the investments on such terms as the board considers advisable;

(e) fix the fiscal year for the authority;

(f) establish a complete system of accounts for the authority and each year shall have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants which shall be open to public inspection; and

(g) designate one or more banks to serve as the depository for the funds of the authority.

All funds of the authority shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the authority's bonds or notes.

To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the State of Texas.

The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the authority's funds.

SECTION 15. Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Sections 12B and 12C to read as follows:

Sec. 12B. ANNUAL BUDGET OF REGIONAL TRANSIT AUTHORITY IN A METROPOLITAN AREA WHOSE PRINCIPAL CITY'S POPULATION EXCEEDS 1,200,000. (a) The board of an authority whose principal city has a population of more than 1,200,000, according to the most recent federal census, shall designate a committee of the board to prepare a proposed annual budget for the authority, which must specify proposed major expenditures by type and amount. The city council of the principal city and the commissioners court of the most populous county in which the principal city is located may each designate a representative to the budget committee, and the representatives, as well as the treasurer for the authority, shall act as nonvoting members of the budget committee who are entitled to participate in the development and discussion of the proposed budget.

(b) Before the board adopts an annual budget, it shall conduct a public hearing on the budget proposed by the budget committee. The hearing shall be held after 6 p.m. to allow as many interested citizens as possible to attend. An annual budget must be adopted before the board conducts business in a fiscal year. After a budget has been adopted as provided by this section, the board may not make expenditures during the fiscal year that exceed the amounts adopted in the budget, except for emergency expenditures approved by the treasurer for the authority.

Sec. 12C. TREASURER OF REGIONAL TRANSIT AUTHORITY IN A METROPOLITAN AREA WHOSE PRINCIPAL CITY'S POPULATION EXCEEDS 1,200,000. (a) The board of an authority whose principal city has a population of more than 1,200,000, according to the most recent federal census, shall appoint a treasurer for the authority with the advice and consent of both the city council of the principal city and the commissioners court of the most populous county in which the principal city is located.

(b) The treasurer for an authority shall:

(1) act as custodian of funds of the authority;

(2) provide for a system of warrants for deposits and disbursements of funds of the authority;

(3) designate depository banks for the treasury of the authority;

(4) forecast and certify revenue estimates for the budgetary process;

(5) monitor conformity to the adopted annual budget of the authority;

(6) establish accounts and oversee and examine all accounting records of the authority;

(7) maintain the official financial records of the authority;

(8) direct an internal audit of all financial records of receipts of the authority;

(9) examine and approve claims against the authority and prepare warrants for payment of claims;

(10) administer the payroll of the authority and employee-related insurance programs;

(11) market bonds of the authority;

(12) prescribe financial reports and accounting procedures;

(13) reconcile fund accounts of the authority;

(14) maintain an inventory of property and equipment of the authority;

(15) assume fiscal and auditing responsibility for grant funds; and

(16) enforce the requirements of this Act relating to fiscal management.

(c) The treasurer may place funds of the authority in certificates of deposit of state or national banks or savings and loan associations within the state if the deposits are secured in the manner provided for the security of the funds of counties of the state. All funds of an authority shall be deposited in depository banks unless otherwise required by orders or resolutions of the board authorizing the issuance of the authority's bonds or notes. To the extent that funds in depository banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the state.

(d) A disbursement of funds of an authority may not be made except by warrant signed by the treasurer of the authority and the presiing officer of the board of the authority.

(e) All employees of an authority must respond promptly, completely, accurately, and candidly to all inquiries and requests for information from the treasurer concerning operations of the authority.

(f) The treasurer of an authority shall be paid a salary equal to the average salary, computed as of January 1 of each year, of all management personnel that report directly to the executive director or general manager of the authority.

(g) A treasurer may be removed from office by action of any two of the following groups:

(1) the board of the authority;

(2) the city council of the principal city; or

(3) the commissioners court of the most populous county in which the principal city is located.

SECTION 16. Section 14, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14. CONTRACTS FOR CONSTRUCTION, GOODS, OR SERVICES [~~COMPETITIVE BIDS~~]. (a) Contracts for more than $2,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies and all other property except real property, shall be let on competitive bids after notice published once a week for two consecutive weeks, the first publication to be at least 15 days before the date fixed for receiving bids, in a newspaper of general circulation in the area in which the authority is located. The board may adopt rules governing the taking of bids and the awarding of such contracts. This subsection does [~~section shall~~] not apply to personal and professional services or to the acquisition of existing transit systems.

(b) The board of an authority may not let a contract (1) that is not subject to competitive bidding requirements, (2) that is for more than $5,000, and (3) that is for the purchase of real property or for personal or professional services unless an announcement that the contract is being considered is made at a board meeting at least two weeks before the board awards the contract and unless a notice that the contract is being considered is posted in a prominent place in the principal office of the authority for at least two weeks before the contract is awarded. This subsection does not apply to the acquisition of existing transit systems.

SECTION 17. Section 17, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 17. EXEMPTIONS FROM TAXES. (a) Except as provided by Subsection (b) of this section, the [~~The~~] property, revenues and income of the authority and the interest on bonds and notes issued by the authority shall be exempt from all taxes levied or to be levied by the State of Texas, its political subdivisions, counties or municipal corporations.

(b) An authority is liable for the payment of taxes that are levied by the state or a political subdivision on a real property interest owned by the authority and that are allocable to a period during which there are no permanent improvements on the land to which the interest applies.

SECTION 18. Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Section 13A to read as follows:

Sec. 13A. TORT CLAIMS. Any authority established hereunder shall be within the definition of "unit of government" as defined by the Texas Tort Claims Act, as amended (Article 6252-19, Vernon's Texas Civil Statutes), and shall be liable as provided therein.

SECTION 19. This Act takes effect September 1, 1979.

SECTION 20. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Ogg moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 662** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ogg, Chairman; Traeger, Jones of Harris, Schwartz and Santiesteban.

MESSAGE FROM THE HOUSE

House Chamber
May 26, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HB 519, A bill to be entitled An Act relating to the assessment of student skills.

H.B. 571, A bill to be entitled An Act relating to directives under the Natural Death Act.

HB 1207, A bill to be entitled An Act relating to the prohibition of certain discriminatory acts in the provision of financial assistance for housing accommodations; providing penalties.

HB 1586, A bill to be entitled An Act relating to satisfaction of a judgment from proceeds of a bond forfeiture.

HB 1866, A bill to be entitled An Act relating to the authority of the county judge to issue permits for employment of a child over the age of fourteen; and amending Article 5181 by adding a new section.

H.C.R. No. 226 Instructing the chief clerk to make certain corrections in H.B. No. 1673.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

H.B. 1263, To Committee on Jurisprudence.
H.B. 985, To Committee on Human Resources.
H.B. 757, To Committee on Human Resources.
H.B. 2111, To Committee on Finance.
H.B. 1553, To Committee on Intergovernmental Relations.
H.B. 486, To Committee on Jurisprudence.
H.B. 1207, To Committee on Human Resources.
H.B. 519, To Committee on Education.
H.B. 571, To Committee on Jurisprudence.
H.B. 1586, To Committee on Jurisprudence.
H.B. 1866, To Committee on Intergovernmental Relations.

SENATE RULE 103 SUSPENDED

On motion of Senator Longoria and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Jurisprudence might consider **H.B. 486** today.

SENATE RULE 103 SUSPENDED

On motion of Senator Schwartz and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Natural Resources might consider **H.B. 1619** today.

SENATE RULE 103 SUSPENDED

Senator Jones of Harris moved to suspend Senate Rule 103 in order that the Committee on Administration might consider the following bills today:

H.B. 659
H.B. 454
H.B. 1799

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: McKnight.

Absent-excused: Howard, Snelson.

BILLS ADDED TO LOCAL AND UNCONTESTED BILLS CALENDAR

On motion of Senator Jones of Harris and by unanimous consent, the following bills were added to the Local and Uncontested Bills Calendar scheduled to be held Sunday, May 27, 1979:

H.B. 659
H.B. 454
H.B. 1799

HOUSE CONCURRENT RESOLUTION 226

The President laid before the Senate the following resolution:

H.C.R. 226, Instructing the Chief Clerk to make certain corrections in **H.B. 1673.**

The resolution was read.

On motion of Senator Meier and by unanimous consent, the resolution was considered immediately and was adopted.

CONFERENCE COMMITTEE REPORT SENATE BILL 232

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 232** 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.

MAUZY
PARKER
TRAEGER
SCHWARTZ
On the part of the Senate

CAIN
MESSER
McFARLAND
DONALDSON
WATSON
On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to state employees covered by workers' compensation; to responsibility for prevention of accidents and injuries; and to adjustments between payments for sick leave and emergency leave and workers' compensation; amending Subdivisions (1) and (2) of Section 1, Section 6 and Section 12 of Article 8309, Revised Civil Statutes of Texas, 1925, as added and amended.

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

SECTION 1. Subdivisions (1) and (2), Section 1, Article 8309g, Revised Civil Statutes of Texas, 1925, as amended, are amended to read as follows:

"(1) 'Employee' means a person in the service of the state pursuant to election, appointment, or an express contract of hire, oral written. The term includes a person who is paid from state funds but whose duties require they work and frequently receive supervision in a political subdivision of the state.

"(2) The word 'employee' shall not include:

"(A) Persons performing personal services for the State of Texas as independent contractors or volunteers.

"(B) Members of the state military forces as defined in Section 1, Article 5765, Revised Civil Statutes of Texas, 1925.

"(C) Persons who are at the time of injury performing services for the [~~a political subdivision of the state or~~] federal government and who are covered by some form of federal workers' compensation, including those working under Comprehensive Employment and Training Act of 1973 programs; prisoners or inmates of a prison or correctional institution; clients or patients of any state institution or agency[~~, or who are controlled by an agency other than the State of Texas~~].

"(D) Persons employed by the State Department of Highways and Public Transportation that are covered under Chapter 502, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 6674s, Vernon's Texas Civil Statutes).

"(E) Persons employed by The University of Texas that are covered by Chapter 310, Acts of the 52nd Legislature, 1951, as amended (Article 8309d, Revised Civil Statutes of Texas).

"(F) Persons employed by The Texas A&M University System that are covered by Chapter 229, Acts of the 50th Legislature, 1947, as amended (Article 8309b, Vernon's Texas Civil Statutes)."

SECTION 2. Section 6, Article 8309g, Revised Civil Statutes of Texas, 1925, as added, is amended to read as follows:

"Section 6. RULES FOR ACCIDENT PREVENTION

"The director shall make and enforce reasonable rules for the prevention of accidents and injuries. He shall hold hearings on all proposed rules under this section and afford reasonable opportunity for officers of the departments, boards, commissions, and agencies of the state to testify. The director's responsibility includes reporting to the legislature any agency that fails to meet their obligation regarding the prevention of accidents and injuries to state employees."

SECTION 3. Section 12, Article 8309g, Revised Civil Statutes of Texas, 1925, as added, is amended to read as follows:

"Section 12. EFFECT OF SICK LEAVE AND EMERGENCY LEAVE

"(a) An employee may elect to utilize accrued sick leave before receiving weekly payments of compensation. If the employee elects to utilize sick leave, the [~~An~~] employee is not entitled to weekly payments of compensation under this article until he has exhausted his accrued sick leave.

"(b) If in accordance with the General Appropriations Act the administrative head or heads of an agency or institution authorize payment for emergency leave to an employee receiving workers' compensation benefits, the payments may not exceed an amount equal to the difference between the basic monthly wage of the employee and the amount of benefits received and may not extend beyond six months from the date on which compensation payments begin. In authorizing these payments for emergency leave, the administrative head or heads of the agency or institution must review the merits of each case individually. If payment for emergency leave is authorized, the agency or institution shall attach a statement of the reasons for the authorization to its duplicate payroll voucher for the first payroll period affected by the leave.

"(c) [~~(b)~~] The director has authority under Section 5 of this article to provide rules for the administration of this section."

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.

The Conference Committee Report was read and filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT SENATE BILL 909

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Reprsentatives on **S.B. 909** 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.

MAUZY
PARKER
TRAEGER
SCHWARTZ
On the part of the Senate

CAIN
MESSER
McFARLAND
DONALDSON
WATSON
On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to the coverage under workers' compensation of employees contracted under the Federal Comprehensive Employment and Training Act of 1973; amending Article 8309h, Revised Civil Statutes of Texas, 1925, as added and amended, by adding Section 9.

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

SECTION 1. Article 8309h, Revised Civil Statutes of Texas, 1925, as added and amended, is amended by adding Section 9 to read as follows:

"Section 9. Notwithstanding any other provision of this law or any applicable workers compensation law, an employee hired in accordance with the Federal Comprehensive Employment and Training Act, shall be considered an employee of the Comprehensive Employment and Training Act prime sponsor, or its contractor or subcontractor, whichever assumes responsibility for disbursement of wages directly to the employee and the "borrowed servant doctrine" shall not apply."

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.

The Conference Committee Report was read and filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT SENATE BILL 296

Senator Parker submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 296** 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.

PARKER
BROOKS
SANTIESTEBAN
JONES OF HARRIS
On the part of the Senate

PRICE
McLEOD
CAIN
GARCIA
THOMPSON
On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a housing program for families and individuals of low income and families of moderate income.

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

SECTION 1. SHORT TITLE. This Act shall be known and may be cited as the Texas Housing Agency Act.

SECTION 2. DEFINITIONS. In this Act the following words, as used in this Act, shall have the meanings set forth below, unless the context clearly requires otherwise:

(a) "Act" means the Texas Housing Agency Act.

(b) "Agency" means the Texas Housing Agency created by the Act.

(c) "Board" means the board of directors of the agency.

(d) "Bond" means any type of interest-bearing obligation, including, without limitation, any bond, note, bond anticipation note, or other evidence of indebtedness, whether general or special, whether negotiable or non-negotiable in form, whether in bearer or registered form, whether in temporary or permanent form, whether with or without interest coupons, and regardless of the source of payment.

(e) "Director" means a member of the board.

(f) "Federal government" means the Unites States of America or any department, division, agency, or instrumentality, corporate or otherwise, of the United States of America.

(g) "Federally insured mortgage" means a mortgage loan for residential housing which is insured or guaranteed by the federal government or for which there is a commitment to insure or guarantee the mortgage by the federal government.

(h) "Federal mortgage" means a mortgage loan for residential housing made by the federal government or for which there is a commitment by the federal government to make the mortgage loan.

(i) "Housing development costs" means the total of all costs incurred in financing, creating, or purchasing any housing development, including but not limited to a single-family dwelling, which is approved by the agency as reasonable and necessary. The costs may include but are not limited to:

(1) the value of land and any buildings on the land owned by the sponsor or the cost of land acquisition and any buildings on the land, including payments for options, deposits, or contracts to purchase properties on the proposed housing site;

(2) cost of site preparation, demolition, and developmment;

(3) any expenses relating to the issuance of bonds;

(4) fees paid or payable in connection with the planning, execution, and financing of the housing development, such as those to the architects, engineers, attorneys, accountants, and the agency;

(5) cost of necessary studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during construction;

(6) cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery, and apparatus related to the real property;

(7) cost of land improvements, including without limitation, landscaping and off-site improvements, whether or not the costs have been paid in cash or in a form other than cash;

(8) necessary expenses in connection with inital occupancy of the housing development;

(9) a reasonable profit and risk fee in addition to job overhead to the general contractor and, if applicable, a limited profit housing sponsor;

(10) an allowance established by the agency for working capital and contingency reserves and reserves for any anticipated operating deficits during the first two years of occupancy; and

(11) the cost of the other items, including tenant relocation, if tenant relocation costs are not otherwise being provided for, as the agency shall determine to be reasonable and necessary for the development of the housing development, less any and all net rents and other net revenues received from the operation of the real and personal property on the development site during construction.

(j) "Housing development" or "housing project" means any real or personal property, project, building, structure, facilities, work, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, which meets or is designed to meet minimum property standards prescribed by the agency, and which is financed pursuant to the provisions of this Act for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for persons and families of low income and families of moderate income in need of housing. The term may include buildings, structures, land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances such as, but not limited to, streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other nonhousing facilities such as administrative, community, and recreational facilities the agency determines to be necessary, convenient, or desirable appurtenances. "Housing development" and "housing project" include both single-family dwellings and multifamily dwellings in rural and in urban areas.

(k) "Housing sponsor" means individuals, including persons and families of low income or families of moderate income, joint ventures, partnerships, limited partnerships, trusts, firms, corporations, and cooperatives, approved by the agency as qualified either to own, construct, acquire, rehabilitate, operate, manage, or maintain in a housing development, subject to the regulatory powers of the agency and other terms and conditions set forth in this Act.

(l) "Land development" means the process of acquiring land for residential housing construction and making, installing, or constructing nonresidential improvements, including, without limitation, waterlines and water supply installations, sewer lines and sewage disposal installations, steam, gas, and electric lines and installations, roads, streets, curbs, gutters, and sidewalks, whether on or off the site, which the agency deems necessary or desirable for housing developments to be financed by the agency.

(m) "Mortgage" means a mortgage, mortgage deed, deed of trust, or other instrument which constitutes a first lien:

(1) on real property; or

(2) on a leasehold under a lease having a remaining term which at the time the mortgage is acquired does not expire until after the maturity date of the interest-bearing obligation secured by the mortgage.

(n) "Mortgage lender" means any bank or trust company, savings bank, mortgage company, mortgage banker, credit union, national banking association, savings and loan association, building and loan association, life insurance company, or other financial institution authorized to transact business in the state that is approved as a mortgage lender by the agency.

(o) "Mortgage loan" means an interest-bearing obligation secured by a deed of trust, a mortgage, bond, note, or other instrument which is a first lien on real property in the state.

(p) "Municipality" means any city, town, or village in this state.

(q) "Persons and families of low income" means persons and families determined by the board to require assistance as is made available by this Act because of insufficient personal or family income taking into consideration, without limitation, such factors as:

(1) the amount of the total income of such persons and families available for housing needs;

(2) the size of the family;

(3) the cost and condition of housing facilities available;

(4) the ability of the persons and families to compete successfully in the private housing market and to pay the amounts required by private enterprise for sanitary, decent, and safe housing; and

(5) standards established for various federal programs determining eligibility based on income.

(r) "Family of moderate income" means a family:

(1) that is determined by the board to require assistance, taking into account the factors listed in Subdivision (q) of this section; and

(2) that does not qualify as a family of low income.

(s) "Public agency" means any board, authority, agency, department, commission, political subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of the state including, without limitation, any county, home-rule charter city, general law city, town, or village, any housing authority, any state-supported education institution of higher learning, any school, junior college, hospital, water, sewerage, waste disposal, pollution, road, navigation, levee, drainage, conservation, reclamation, or other district or authority, and any other type of political or governmental entity of the state.

(t) "Real property" means all land, including impovements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including leasehold interests, terms for years, and liens by way of judgment, mortgage, or otherwise.

(u) "Reserve fund" means the Texas Housing Agency reserve fund which may be created pursuant to this Act, and which may be established by the Agency with the state treasurer of the State of Texas out of proceeds from the sale of the agency's bonds or other resources, as additional security for the agency's bonds.

(v) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction, reconstruction, remodeling, improvement, or rehabilitation of land, buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental or appurtenant thereto.

(w) "State" means the State of Texas.

SECTION 3. CREATION OF THE AGENCY.

(a) There is hereby created and established a public and official governmental agency of the state, to be known as the Texas Housing Agency, and the state shall act by and through the agency in carrying out all powers and duties conferred by this Act. The exercise by the agency of all powers and duties conferred by this Act shall constitute and be deemed and held to be an essential public and official governmental function and purpose of the state, acting by and through the agency, in promoting the general welfare and prosperity of the state and all of its citizens.

(b) The agency is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the agency is abolished and this Act expires effective September 1, 1991.

SECTION 4. PRIMARY PURPOSE OF THE AGENCY: DECLARATION OF POLICY. It is hereby declared:

(a) That there exists within both rural and urban areas of this state a shortage of sanitary and safe residential housing at prices or rentals which persons and families of low icome and families of moderate income can afford; that this shortage has contributed to and will contribute to the creation and persistence of substandard living conditions and is inimical to the health, welfare, and prosperity of the residents and communities of this state;

(b) that it is imperative that the supply of residential housing for such persons and families and for persons and families displaced by public actions or natural disaster be increased;

(c) that private enterprise and investment are unable, without financial assistance, to provide in sufficient quantities the needed construction or rehabilitation of sanitary and safe residential housing at prices or rentals which persons and families of low income and families of moderate income can afford and to provide sufficient long-term mortgage financing for residential housing for occupancy by such persons and families;

(d) that private enterprise and investment be encouraged to develop land and to build and to rehabilitate residential housing for such persons and families, and that private financing be supplemented by financing as provided in this Act in order to help prevent the creation and recurrence of substandard living conditions and to assist in their permanent elimination throughout this state. It is further declared that in order to provide a fully adequate supply of sanitary and safe dwelling accommodations at rents, prices, or other costs which such persons or families can afford, the legislature finds that it is necessary to create

and establish a housing finance agency for the purpose of encouraging the investment of private capital and stimulating the acquisition, construction, and rehabilitation of residential housing to meet the needs of such persons and families through the use of public financing, to provide construction and mortgage loans, and to make provision for the purchase of mortgage loans and otherwise. It is hereby further declared to be necessary and in the public interest that such housing finance agency provide for predevelopment costs, temporary financing, incidental land development expenses, and residential housing acquisition, construction, or rehabilitation by housing sponsors for sale or rental to persons and families of low income and families of moderate income; and further, to provide mortgage financing, including, without limitation, long-term federally insured mortgages to eligible housing sponsors; and further, to increase the acquisition, construction, and rehabilitation of low income housing through the purchase from mortgage lenders authorized to transact business within the state of first mortgage loans for residential housing for persons and families of low income and families of moderate income in this State; further to provde technical, consultative, and project assistance services to private sponsors, to assist in coordinating federal, state, regional, and local public and private records and resources, to guarantee to the extent provided herein the repayment of certain loans secured by residential mortgages, and to preserve the quality of life in this state. It is hereby further declared that all of the foregoing are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned, granted, or appropriated, and that such activities serve a public purpose in improving or otherwise benefitting the people of this state; that the necessity of enacting the provisions of this Act is in the public interest and is hereby so declared as a matter of express legislative determination.

SECTION 5. APPOINTMENT AND REMOVAL OF DIRECTORS.

(a) The board of directors of the agency which is and constitutes a "board" of the state, within the meaning of Article 16, Section 30a, of the Texas Constitution, and which shall have such powers and duties as are prescribed in this Act, shall consist of nine members, entitled directors. Each director occupies one of the nine places on the board designated as Places 1 through 9.

(b) The nine regular directors shall be appointed by the governor with the advice and consent of the senate.

(c) Except for the initial appointees, directors hold office for staggered terms of six years, with the terms of three directors expiring on January 31 of each odd-numbered year. Each director shall hold office until a successor is appointed and has qualified.

(d) The directors initially appointed to occupy Places 1, 4, and 7 shall serve terms expiring on January 31, 1981. The directors initially appointed to occupy Places 2, 5 and 8 shall serve terms expiring on January 31, 1983. The directors initially appointed to occupy Places 3, 6, and 9 shall serve terms expiring on January 31, 1985.

(e) Each director is eligible for reappointment.

(f) Any vacancy on the board is filled by appointment by the governor with the advice and consent of the senate. A vacancy, except for expiration of term, is filled for the unexpired term only. If a vacancy occurs while the senate is not in session, the governor may make the appointment subject to confirmation by the senate when convened.

(g) To be eligible for appointment as a director, a person must be a qualified voter of the state and not hold any other public office. The Governor shall make appointments so that the places on the board are occupied by persons having the following experience:

(1) Place 1 - a person with experience in housing development administration;

(2) Place 2 - a person with experience in commercial banking;

(3) Place 3 - a person with experience in real estate operations;

(4) Place 4 - a person with experience in home building;

(5) Place 5 - a person with experience in apartment construction or ownership;

(6) Place 6 - a person with experience in mortgage banking;

(7) Place 7 - a person with experience in savings and loan operations;

(8) Place 8 - a person with experience in municipal or county government;

(9) Place 9 - a person with experience in housing problems of persons and families of low income and families of moderate income.

SECTION 6. GENERAL PROVISIONS RELATING TO THE BOARD

(a) The directors do not receive any compensation but each director is entitled to reimbursement for actual expenses incurred in performing duties of office to the extent authorized by the board.

(b) The board shall employ an executive administrator of the agency. The administrator may attend all meetings and participate in all proceedings of the board, but may not vote.

(c) The executive director of the Texas Department of Community Affairs, shall, as part of his or her regular duties of office, serve, ex officio, as the chairman of the board, who shall preside at meetings of the board and perform such other duties as are prescribed by the board and this act, except that he or she shall not have a vote.

(d) The board shall elect one of the Directors as vice-chairman to perform the duties of the chairman when the chairman is not present or is incapable of performing duties. The board shall elect a secretary to be the official custodian of the minutes, books, records, and seal of the board and to perform other duties as prescribed by the board. The board shall elect a treasurer to perform duties prescribed by the board. The offices of secretary and treasurer may be held by one person, and the holder of each of these offices need not be a director. The board may appoint one or more persons who are not directors to be assistant secretaries who may perform any duty of the secretary.

(e) A majority of the regular members of the board of directors constitutes a quorum. The board shall act and proceed by and through resolutions adopted by the board. The affirmative vote of at least five directors is necessary to adopt a resolution.

(f) The vice-chairman, secretary, and treasurer of the board shall be elected at the first meeting of the board after all directors shall have been appointed, taken the oath required by Article 16, Section 1, of the Texas Constitution, and otherwise qualified for office. Therafter, officers of the board shall be elected at the first meeting of the board on or following January 31 of each odd-numbered year, or at any time necessary to fill a vacancy.

(g) The board shall hold regular meetings at times specified by resolution of the board and may hold special meetings when called by the chairman, the administator, or three of the directors.

(h) Prior to the issuance of bonds, each director shall execute a surety bond in the penal sum of $25,000, conditioned on the faithful performance of the duties of director, executed by a surety company authorized to transact business in this state, approved by the attorney general, and filed with the secretary of state. The surety bonds shall be kept in force at all times thereafter and the costs shall be paid by the agency.

(i) A director, chairman of the board, or administrator is not liable personally for any bonds issued or contracts executed by the agency.

SECTION 7. POWERS OF THE ADMINISTRATOR AND THE BOARD

(a) The administrator of the agency shall exercise and perform all powers, duties and functions prescribed by this Act, except those prescribed i subsection (b) of this section or otherwise required to be exercised by the board. The administrator, with the advice and consent of the board, shall appoint a deputy administrator of the agency. The administrator may employ any other employees necessary for the discharge of the duties of the agency, in such number and for such time as may be necessary for the performance of such duties and functions and to remove same, subject to the annual budget and the provisions of any resolution authorizing the issuance of the agency's bonds.

(b) The board shall have the following specific duties and powers, in addition to any other specific duties and powers assigned to the board in this Act:

(1) in its discretion, authorize all bonds of the agency;

(2) make rules, not inconsistent with this Act, governing the administration of the agency and its programs;

(3) adopt procedures for approving loans, purchases of loans, and commitments to purchase loans under this Act;

(4) adopt underwriting standards for loans made or purchased by the agency;

(5) adopt minimum property standards for housing developments financed under this Act;

(6) establish interest rates and amortization schedules for loans made or purchased by the agency;

(7) establish a schedule of fees and penalties authorized by this Act, including but not limited to application, processing, loan commitment, origination, servicing, and administrative fees;

(8) establish eligibility criteria for persons and families of low income and families of moderate income to participate in and benefit from the agency's programs;

(9) compile a list of approved mortgage lenders;

(10) approve an annual report of the agency; and

(11) approve an annual budget pursuant to Section 18.

SECTION 8. GENERAL POWERS OF THE AGENCY.

(a) The agency is hereby granted, has, and may exercise all powers necessary or appropriate to carry out, achieve, or effectuate the purposes of this Act, including, without limitation, the following powers:

(1) to sue and be sued, and plead and be impleaded, in its own name; and it is specifically enacted that the agency is and constitutes a separate governmental agency and a body politic and corporate of this state, acting for and on behalf of this state;

(2) to adopt an official seal and alter same when deemed advisable;

(3) to adopt and enforce bylaws and rules for the conduct of its affairs not inconsistent with bylaws and this Act;

(4) to acquire, hold, invest, deposit, use and dispose of its revenues, income, receipts, funds, and monies from every source, and to select its depository or depositories, subject only to the provisions of this Act and any covenants with respect to the agency's bonds;

(5) to acquire, own, rent, lease, accept, hold, or dispose of any real, personal, or mixed property, or any interest therein, in performing its duties and exercising its powers under this Act, by purchase, exchange, gift, assignment, transfer, foreclosure, sale, lease, or otherwise, including rights or easements, and to hold, manage, operate, or improve real, personal, or mixed property, except that:

(a) the agency may not construct or acquire any housing development unless acquired through foreclosure of mortgages or sales under deeds of trust;

(b) the agency shall make a diligent effort to sell a housing development so acquired to a purchaser who will be required to pay ad valorem taxes on the housing development or, if such a purchaser cannot be found, to any other purchaser; and

(c) in any event the agency shall sell a housing development so acquired within three years after the date of acquisition unless the board adopts a resolution stating that a purchaser for the housing development cannot be found after diligent search by the agency, in which case the agency shall continue to try to find a purchaser and shall sell the housing development when a purchaser is found;

(6) to sell, assign, lease, encumber, mortgage, or otherwise dispose of any real, personal, or mixed property, or any interest therein, or any deed of trust or mortgage lien interest owned by it or under its control, custody or in its possession, and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it, and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law; and to lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities from private parties to effectuate the purposes of this Act;

(7) to request and accept any appropriations, grants, allocations, subsidies, rent supplements, guaranties, aid, contributions, services, labor, materials, gifts, or donations from the federal government, the state, any public agency, or any other sources;

(8) to maintain an office or offices throughout the state, and appoint and determine the duties, tenure, qualifications, and compensation of its officers, employees, agents, professional advisors, and counselors, including, without limitation, financial consultants, accountants, attorneys, architects, engineers, real estate consultants, appraisers, housing construction and financing experts, as are determined necessary or advisable; it is the intention of this Act that the programs of the agency be coordinated with the programs of the Texas Department of Community Affairs with respect to their design and implementation in order to avoid duplication of governmental housing programs;

(9) to make, enter into, and enforce contracts and agreements with the federal government, the state, any public agency, or any person, firm, corporation, or other entity in performing its duties and exercising its powers under this Act; to make and enter into all contracts, agreements, and other arrangements with mortgage lenders, and to designate mortgage lenders to act for and in behalf of the agency, with respect to originating, servicing and processing mortgage loans of the agency, under the terms and conditions agreed on between the parties; and to provide, contract, or arrange for consolidated processing of any aspect of a housing development in order to avoid duplication;

(10) to issue its bonds, to provide for and secure the payment of the bonds, and to provide for the rights of the holders of the bonds, in the manner and to the extent permitted by this Act and the Texas Constitution, and to purchase, hold, cancel, or resell or otherwise dispose of any of its bonds, subject to any restrictions in any resolution authorizing the issuance of its bonds;

(11) To fix, charge, and collect fees and charges in connection with loans made or other services provided by the agency pursuant to this Act;

(12) to do anything authorized by this Act, through its directors, officers, or employees, or by contracts with the federal government, the state, any public agency, or any person, firm, corporation, or other entity;

(13) to invest its money in any bonds, obligations, or other securities, or place such money in demand or time deposits, whether or not evidenced by certificates of deposit unless otherwise provided by this Act or a resolution authorizing the issuance of its bonds;

(14) to do all things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied by this Act;

(15) to conduct hearings and to take testimony and proof, under oath or affirmation, at public hearings, on any matter necessary to carry out the purposes of this Act;

(16) to procure and pay premiums on insurance of any type whatsoever, in amounts and from insurers as the board deems necessary or advisable;

(17) to encourage individual or cooperative home ownership among persons and families of low income and families of moderate income in this state; and

(18) to investigate housing conditions and the means for improving those conditions, and determine where slum or blighted areas exist.

SECTION 9. POWERS RELATIVE TO MAKING MORTGAGE LOANS AND CONSTRUCTION LOANS TO HOUSING SPONSORS. In addition to all other powers, the agency shall have the following specific powers:

(a) The agency may make, undertake commitments to make, and participate in the making of, mortgage loans, including, without limitation, federally insured morgage loans, and/or to make temporary loans and advances in anticipation of permanent mortgage loans, to housing sponsors to finance the purchase, construction, remodeling, improvement, or rehabilitation of housing developments for residential housing designed and planned for persons and families of low income and/or families of moderate income, upon the terms and conditions set forth in this Act.

(b) The agency may make and publish rules respecting making mortgage loans pursuant to this Act, the regulations of borrowers, the construction of ancillary commercial facilities, and resale and disposition of any real property, or any interest therein, financed by the agency.

(c) The agency may enter into agreements and contracts with housing sponsors and mortgage lenders under the provisions of this Act with respect to making or participating in making mortgage loans for residential housing for persons and families of low income and/or families of moderate income.

(d) The agency may institute any action or proceeding against any housing sponsor receiving a loan under the provisions hereof, or owning any housing development hereunder in any court of competent jurisdiction in order to enforce the provisions of this Act, the terms and provisions of any agreement or contract between the agency and such recipients of loans under the provisions hereof, including, without limitation, provisions as to rental or carrying charges and income limits as applied to tenants or occupants, or to foreclose its mortgage, or to protect the public interest, persons and families of low income or families of moderate income, stockholders, or creditors of the sponsor. In connection with any such action or proceeding the agency may apply for the appointment of a trustee or receiver to take over, manage, operate, and maintain the affairs of a housing sponsor. The agency through such agent as it shall designate is hereby authorized to accept appointment as trustee or receiver of any such sponsor when so appointed by a court of competent jurisdiction.

SECTION 10. LOAN TERMS AND CONDITIONS. Loans made by the agency under the preceding section shall be subject to the following terms and conditions:

(a) The agency shall not process an application for a loan for a housing development unless the applicant is a housing sponsor and the application is submitted and recommended by a mortgage lender.

(b) The ratio of loan to total housing development cost and the amortization period of loans made under this Act which are insured or guaranteed by the federal government are governed by the federal government mortgage insurance commitment or federal guarantee for each housing development, except the amortization period may not exceed 40 years.

(c) A mortgage loan not insured by the federal government may not exceed 95 percent of the total housing development cost as determined by the agency. The amortization period of the loan shall be determined in accordance with regulations formulated and published by the agency, except the amortization period may not exceed 40 years.

(d) A mortgage loan made under this Act may be prepaid to maturity after the period of years and under the terms and conditions decided upon by the board.

(e) The agency may set the interest rates at which it makes loans and commitments therefore. The interest rates shall be established by the board in its sole discretion so as to produce at least the amounts required, together with other available funds, to pay for the agency's costs of operation and to meet its covenants with and responsibilities to the holders of its bonds. In addition to such interest charges the agency shall make and collect such fees and charges, including but not limited to, reimbursement of the agency's financing costs, service charges, insurance premiums, and mortgage insurance premiums, as the agency determines to be reasonable.

(f) In considering an application for a loan, the agency shall give first priority to applications for well-planned and-designed housing developments. The agency shall also give consideration to:

(1) the comparative need for housing for persons and families of low income and families of moderate income in the area to be served by the proposed housing development;

(2) the ability of the applicant to carry out, operate, manage, and maintain the proposed housing development;

(3) the existence of zoning, protective covenants, or regulations that adequately protect the proposed housing development against detrimental future uses that could cause undue depreciation in the value of the housing development; and

(4) the availability in urban areas of adequate parks, recreational areas, utilities, schools, transportation, and parking.

(g) Each mortgage loan shall be evidenced by a mortgage or deed of trust note or bond and by a mortgage or deed of trust that constitutes a first lien on the housing development and on all the real property constituting the site of or relating to the housing development, and that contains provisions and is in a form required by the agency. The note or bond and mortgage or deed of trust may contain exculpative provisions relieving the borrower or its principal from personal liability if agreed upon by the agency.

(h) Each mortgage loan is subject to an agreement between the agency and the housing sponsor that subjects the sponsor and its principals or stockholders to limitations established by the agency as to rentals and other charges, builders' and developers' profits and fees, and the disposition of its property and on all of the real property constituting the site of or relating to the housing development.

(i) As a condition of each loan, the agency may at any time during the construction, rehabilitation, or operation of a housing develoment:

(1) enter upon and inspect the housing development, including all parts thereof, for the purpose of investigating the physical and finacial condition thereof, and its construction, rehabilitation, operation, management and maintenance, and to examine all books and records with respect to capitalization,

income and other matters relating thereto and to make such charges as may be required to cover the cost of such inspections and examinations;

(2) order alterations, changes or repairs necessary to protect the security of the agency's investment in a housing development or the health, safety, and welfare of the occupants; and

(3) order any managing agent, housing development manager, or owner of a housing development to do whatever is necessary to comply with the provisions of applicable laws, ordinances or rules of the agency or the terms of any agreement concerning the housing development or to refrain from doing any acts in violation thereof and in this regard the agency shall be a proper party to file a complaint and to prosecute thereon for any violations of laws or ordinances as set forth herein.

(j) a housing sponsor may not make distributions in any one year with respect to a housing development financed by the agency in excess of that which shall be prescribed by rules of the agency of the housing sponsor's equity in the development. The principals or stockholders of a housing sponsor may not at any time earn, accept, or receive a return greater than that which shall be prescribed by rules of the agency per annum of their investment in a housing development financed by the agency. A housing sponsor's equity in a housing development consists of the difference between the mortgage loan and the total housing development cost. The agency shall establish the sponsor's equity at the time of the making of the final mortgage advance and, for the purposes of this subsection, that figure remains constant during the life of the agency's mortgage or deed of trust on the development, except for additional equity investment made by the sponsor with the agency's approval or at its order.

SECTION 11. PURCHASE AND SALE OF MORTGAGE LOANS

(a) The agency may purchase and take assignments from mortgage lenders or the federal government, of notes and mortgages evidencing loans for the construction, remodeling, improvement, or rehabilitation, purchase, leasing, or refinancing of housing developments for persons and families of low income and families of moderate income.

(b) The agency may sell, at public or private sale, with or without public bidding, a mortgage or other obligation held by the agency.

SECTION 12. TERMS OF THE PURCHASE AND SALE OF MORTGAGE LOANS

(a) No mortgage loan purchased from a mortgage lender is eligible for purchase by the agency unless the mortgage lender certifies that:

(1) the mortgage loans transferred to the agency are for housing developments for persons or families of low income or for families of moderate income; or

(2) the proceeds of the sale or the equivalent have been or will be invested in mortgage loans that benefit persons and families of low income and families of moderate income or invested in short term obligations pending the making of such mortgage loans.

(b) When the agency purchases a mortgage loan from a mortgage lender, it shall pay a purchase price equal to the outstanding principal balance, except that discount from the principal balance or the payment of a premium may be employed to effect a fair rate of return consistent with the obligations of the agency and the purposes of this Act. In addition to payment of the outstanding principal balance, the agency shall pay the accrued interest due to the date on which the mortgage loan is delivered against payment.

(c) Mortgage loans purchased or sold under this section may include mortgage loans that are insured, guaranteed, or assisted by the federal government, or for which there is commitment by the federal government to insure, guarantee, or assist the mortgage loan.

(d) The agency shall adopt rules governing the purchase and sale of mortgage loans and the application of the proceeds thereof, including rules governing:

(1) procedures for submitting requests or inviting proposals for the purchase and sale of mortgage loans:

(2) restrictions as to the number of family units, location, or other qualifications of residences to be financed by residential mortgage loans, and income limits of persons and families of low income or families of moderate income occupying the residence;

(3) restrictions as to the interest rates on mortgage loans or the return realized by mortgage lenders;

(4) requirements for commitments by mortgage lenders with respect to mortgage loans;

(5) schedules of fees and charges necessary for expenses and reserves of the agency;

(6) resale of the housing development; and

(7) any other matters related to the powers of the agency to purchase and sell mortgage loans.

(e) The agency shall review each mortgage loan purchased by the agency to determine if the loan meets the conditions of this Act, the rules of the agency, and any commitment made with the mortgage lender to purchase mortgage loans. The agency may require the substitution of another mortgage loan when it determines that a loan does not comply with this Act, its rules, or a commitment made with the mortgage lender. Subsections (b), (c), (d), (e), and (g) of Section 10 of this Act apply to the purchase of mortgage loans.

(f) The agency may not purchase an obligation that is more than two years old.

SECTION 13. SUPERVISING HOUSING SPONSORS.

The agency shall have the power to supervise housing sponsors of housing developments that are rented or leased to tenants, including limited profit housing sponsors, and their real and personal property, in the following respects:

(a) The agency may prescribe uniform systems of accounts and records for housing sponsors and may require housing sponsors to make reports and certifications of their expenditures and to answer specific questions on forms and at such times as may be necessary for the purposes of this Act.

(b) The agency, through its agents or employees, may enter upon and inspect the land, buildings, and equipment of a housing sponsor, including all parts thereof, and may examine all records showing the capital structure, income, expenditures, and other payments of a housing sponsor.

(c) The agency may supervise the operation and maintenance of a housing development and may order repairs as necessary to protect the public interest or the health, welfare, or safety of the housing development occupants.

(d) The agency shall approve and may alter from time to time a schedule of rents and charges for a housing development.

(e) The agency shall determine standards for, and shall control, tenant and management selection by a housing sponsor.

(f) The agency may require a housing sponsor to pay the agency fees and charges for the costs of regulating the housing sponsor, including, without limitation, the costs of examination, inspection, supervision, and auditing the housing sponsor.

(g) The agency may order a housing sponsor to do, or to refrain from doing, what is necessary to comply with the provision of law, the rules of the agency, and the terms of a contract or agreement to which the housing sponsor is a party.

(h) The agency shall regulate the retirement of any capital investment or the redemption of stock of a limited profit housing sponsor if the retirement or redemption, when added to any dividend or other distribution exceeds in any one fiscal year the permitted percentage, as shall be prescribed by rules of the agency, or the original face amount of the limited profit housing sponsor's investment or equity in any housing development.

(i) The agency shall make rules specifying the categories of cost allowable in the construction, reconstruction, remodeling, improvement, or rehabilitation of a housing development. The agency shall require a housing sponsor to certify the actual housing development costs on completion of the housing development, subject to audit and determination by the agency, except that the agency may accept, in lieu of certification of housing development costs, other assurances of the housing develoment costs, in any form or manner whatsoever, that will enable the agency to determine with reasonable accuracy the amount of the housing development costs.

(j) this section does not apply to any housing development for which persons or families of low income or families of moderate income receive a mortgage loan hereunder, and which initially are intended for occupancy by such persons or families.

SECTION 14. ADMISSION TO HOUSING DEVELOPMENTS.

(a) Admission to housing developments that are rented or leased to tenants financed under this Act is limited to persons or families of low income and families of moderate income.

(b) The agency shall periodically examine the income of any person or family who are tenants residing in a housing development. The agency or, with the approval of the agency, the housing sponsor of a housing development may terminate the tenancy or interest of any person or family whose gross income exceeds the income level prescribed for admission by more than 25 percent for a period of six months or more. No tenancy or interest of any person or family in any housing development may be terminated except on reasonable notice and opportunity to obtain suitable alternate housing in accordance with rules of the agency. A person or family whose gross income would not otherwise permit continued occupancy of a dwelling unit may, with the approval of the agency, continue to occupy a dwelling unit on payment of a surcharge to the housing sponsor in accordance with a schedule of surcharges fixed by the agency.

(c) If a person or family who resides in a cooperative housing development must move from the housing development because of excessive income, the person or family must be discharged from liability of any note, bond, or other evidence of indebtedness and reimbursed, in accordance with the rules of the agency, for all sums paid to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy or on account of the acquisition of title for that purpose.

(d) This section does not apply to any housing development for which persons or families of low income or families of moderate income receive a mortgage loan hereunder, and which initially are inended for occupancy by such person or families.

SECTION 15. PROCEDURE PRIOR TO FINANCING OF HOUSING DEVELOPMENTS UNDERTAKEN BY HOUSING SPONSORS.

Notwithstanding any other provision of this Act, the agency is not empowered to finance any housing development undertaken by a housing sponsor unless, prior to the financing of any housing development hereunder, the agency finds that:

(1) the housing development is necessary to provide needed decent, safe, and sanitary housing at rentals or prices which persons or families of low income or families of moderate income can afford;

(2) the housing sponsor or sponsors undertaking the proposed housing development in this state will supply well-planned and-designed housing for persons or families of low income or families of moderate income and that such sponsors are financially responsible;

(3) the financing of the housing development pursuant to the provisions of this Act, will constitute a public purpose and will provide a public benefit; and

(4) the housing development will be undertaken within the authority conferred by this Act upon the agency and the housing sponsor or sponsors.

SECTION 16. EXEMPTION FROM TAXATION.

The property of the agency, its income, and operations are exempt from all taxes and assessments imposed by the state and all public agencies on property acquired or used by the agency under the provisions of this Act. The agency may, under its terms, conditions, and rules make payments to public agencies in lieu of ad valorem taxes on any property which the agency has acquired through foreclosure or sale under a deed of trust. It shall be the policy of the agency to make these payments in lieu of taxes whenever practicable with any money lawfully available for this purpose, subject to the provisions, requirements, and restrictions of any bond resolution.

SECTION 17. FISCAL YEAR; ANNUAL REPORT; AUDIT.

The agency shall operate on a fiscal year beginning September 1 and ending August 31. The agency shall have an audit of its books and accounts for each fiscal year by the state auditor or by a certified public accountant. The cost of the audit is an expense of the agency. A copy of the audit shall be filed with the governor and the legislature on or before January 1 of each year, except if the audit is being made by the state auditor and is not available by January 1, it shall be filed as soon as it is available. Also, on or before January 1 of each year the agency shall prepare a report of its activities for the preceding fiscal year for the governor and the legislature. The report shall set forth a complete operating and financial statement.

SECTION 18. ANNUAL BUDGET

(a) On or before August 1 of each year, the administrator shall file with the board a proposed annual budget for the succeeding fiscal year. The budget shall set forth the general categories of expected expenditures out of revenues and income of the agency, and the amount on account of each, and may include a provision or reserve for contingencies or overexpenditures. On or before September 1 in each year, the board shall consider the proposed annual budget and shall approve it or change it as the board determines necessary or advisable. Copies of the annual budget certified by the chairman of the board shall be filed promptly with the governor and the legislature. The annual budget is not effective until it is filed.

(b) If for any reason the agency does not adopt the annual budget before September 2, the budget for the preceding year shall remain in effect until a new budget is adopted.

(c) The agency may adopt an amended annual budget for the current fiscal year, but the amended annual budget may not supersede a prior budget until it is filled with the governor and the legislature.

(d) All expenses incurred in carrying out the provisions of the Act shall be payable solely from revenues or funds provided or to be provided pursuant to the provisions of this Act, and nothing in this Act shall be construed to authorize the agency to incur any indebtedness or liability on behalf of or payable by the State of Texas, except as provided in this Act, or as otherwise provided by law.

SECTION 19. SELECTION OF DEPOSITORY.

(a) The agency shall choose a depository for its revenues and funds, other than appropriated funds, after inviting bids for favorable interest rates. The

agency shall publish notice in at least one newspaper of general circulation in the state at least 14 days before the last day set for the receipt of the bids. The notice shall state the types of deposits planned, the last day on which bids will be received, and the time and place for oening bids.

(b) Sealed bids that are identified as bids on the envelope must be submitted to the agency before the deadline for receiving bids. The state auditor or a member of the audotir's staff must be present at the bid opening. The agency shall provide a tabulation of all submitted bids for public inspection.

(c) The agency shall choose the depository submitting the bid with the most favorable interest rate.

(d) If covenants related to the agency's bonds specify one or more depositories or set out a method of selecting depositories different from the method prescribed by this section, the covenants prevail with respect to the funds to which they apply.

SECTION 20. AGENCY RECORDS.

(a) The agency shall keep complete records and accounts of its business transactions according to generally accepted methods of accounting.

(b) The agency shall keep complete minutes of its meetings. The agency accounts, minutes and other records shall be kept at its principal office.

SECTION 21. ISSUE OF HOUSING FINANCE AGENCY BONDS

(a) The board of directors of the agency by resolution from time to time may provide for the issuance of negotiable bonds as authorized by the Texas Constitution. The bonds shall be on a parity and shall be called Texas Housing Bonds. The board may issue them in one or several installments and shall date the bonds of each issue.

(b) In addition to the authority to issue general obligation bonds as provided in Section 21(a) of this Act, the agency may issue its revenue bonds for the purpose of providing money with which to carry out, achieve, or effectuate any purpose, power, or duty of the agency under this Act. The agency's bonds may be issued from time to time in one or more series or issues, payable as to principal, interest, and redemption premium, if any, from, and secured by a first lien or a subordinate lien on and pledge of, all or any part of the revenues, income, or other resources of the agency including, without limitation, the repayments of mortgage loans, the earnings from investment or deposit of the reserve fund and other funds of the agency, the fees, charges, and any other amounts or payments received pursuant to this Act, and any appropriations, grants, allocations, subsidies, rent supplements, guaranties, aid, contribution, or donations from the federal government.

(c) Also, the agency may issue its bonds, which may be designated as "bond anticipation notes," which may be made payable as to principal, interest, and redemption premium, if any, solely from the proceeds from the sale of the agency's definitive refunding bonds if or when issued and delivered for the purpose of refunding such bond anticipation notes, or payable as to principal, interest, and redemption premium, if any, from such definitive refunding bonds and any other revenues, income, or resources of the agency, and the agency may covenant that it will issue, sell, and deliver such definitive refunding bonds in such manner as will provide the money necessary to pay any required part of the principal of and interest and redemption premium, if any, on the bond anticipation notes when due; provided that such bond anticipation notes may be refunded in any other manner permitted by the Act.

(d) The payment of the principal of and the interest and redemption premium, if any, on the agency's bonds additionally may be secured by a first lien or a subordinate lien on and pledge of all or any part of the assets and real, personal, or mixed property of the agency (including mortgages and obligations

securing same, and investments), and the reserve fund, or other reserves or funds of the agency.

(e) All bonds issued by the agency shall be authorized by resolution of the board, and may be secured by mortgages or deeds of trust on property, and/or by trust agreements or trust indentures administered by one or more corporate trustees, in such manner as may be prescribed by the board; and the substantial form of any such mortgage, deed of trust, trust agreement, or trust indenture shall be set forth in, and constitute a part of, the resolution authorizing the issuance of the bonds. Any resolution authorizing the issuance of the bonds of the agency may provide that part of the proceeds from the sale thereof may be used for paying the costs and expenses of issuing the bonds, for paying interest on the bonds during such period as may be prescribed by the board, and for paying or repaying operation and maintenance expenses of the agency to the extent and for the period of time specified in said resolution, and also for the funding, increasing, or restoring any depletions of the reserve fund, or other reserves or funds for any purposes.

(f) The agency may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms or conditions as may be set forth in the resolution authorizing the issuance of the bonds.

(g) The agency also may issue its bonds for the specific purpose of providing all or any part of the money required for funding or increasing the reserve fund, or other reserves or funds of the agency.

SECTION 22. INTEREST ON BONDS.

The agency's bonds may be issued to bear interest at any rate or rates as shall be determined by the board.

SECTION 23. FORM, DENOMINATION, PLACE OF PAYMENT

(a) The agency's bonds may be issued as serial bonds, or as term bonds, or any combination of each as shall be determined by the board.

(b) The agency's bonds may be issued in coupon form payable to bearer, or in fully registered form, or as coupon bonds payable to bearer but registrable as to principal alone, or as to both principal and interest, or in any other form.

(c) The agency's bonds may be payable at any place of places, may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be executed, all as provided by the board in the resolution authorizing the issuance of said bonds.

(d) The agency's bonds may be sold in such manner, at such price, and under such terms and conditions, as shall be determined by the board.

SECTION 24. MATURITY OF BONDS.

The agency's bonds may mature within any period as shall be determined by the Board.

SECTION 25. REDEMPTION BEFORE MATURITY, CONVERSION

(a) The board may provide and covenant for the conversion of any form of bond into any other form or forms of bond, and for reconversion of bonds into any other form.

(b) If the duty of replacement, conversion, or reconversion of bonds is imposed upon a place of payment (paying agent) of any bonds, or upon a corporate trustee under a trust agreement or trust indenture, the replacement, converted, or reconverted bond need not be re-approved by the attorney general or reregistered by the comptroller of public accounts as provided in Section 27 of this Act. Otherwise, all replacement, converted, or reconverted bonds must be so approved and registered as provided in Section 27 of this Act, in accordance with the procedures established in the resolution authorizing the bonds.

SECTION 26. AGENCY'S BONDS NOT OBLIGATIONS OF THE STATE

(a) The agency's bonds are solely obligations of the agency and are payable solely from funds of the agency, and this Act and the agency's bonds are not, and do not create or constitute in any way, an obligation, a debt, or a liability of the state, or create or constitute a pledge, giving, or lending of the faith or credit or taxing power of the state except bonds authorized by the Texas Constitution and as provided in Section 21(a) of this Act.

(b) Each bond of the agency not authorized by Section 21(a) of this Act, shall contain on its face a statement to the effect that the state is not obligated to pay the principal thereof or interest thereon; and that neither the faith or credit nor the taxing power of the state is pledged, given, or loaned to such payment.

(c) However, the state hereby pledges to and agrees with the holders of any bonds issued under this Act that the state will not limit or alter the rights hereby vested in the agency to fulfill the terms of any agreements made with the said holder thereof or in any way impair the rights and remedies of such holders until such bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The agency is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds.

SECTION 27. APPROVAL OF BONDS; REGISTRATION.

All bonds issued by the agency, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If the Attorney General finds that such bonds have been authorized in accordance with this Act, the Attorney General shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas.

SECTION 28. EXECUTION OF BONDS.

The bonds authorized by Section 21(a) of this Act shall be executed on behalf of the board as general obligations of the state in the following manner: the chairman of the board shall sign the bonds; the board shall impress its seal on the bonds; the governor shall sign the bonds; and the secretary of state shall attest the bonds and impress on them the state seal.

SECTION 29. FACSIMILE SIGNATURES AND SEALS.

The resolution authorizing the issuance of an installment or series of bonds may prescribe the extent to which the board in executing the bonds and appurtenant coupons may use facsimile signatures and facsimile seals instead of manual signatures and manually impressed seals. Interest coupons may be signed by the facsimile signatures of the chairman of the board of the agency.

SECTION 30. SIGNATURE OF FORMER OFFICER.

If an officer whose manual or facsimile signature appears on a bond or whose facsimile signature appears on any coupon ceases to be an officer before the bond is delivered, the signature is valid and sufficient for all purposes as if the officer had remained in office until the delivery had been made.

SECTION 31. BONDS INCONTESTABLE.

(a) After approval by the Attorney General and registration by the Comptroller of Public Accounts, the bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

(b) In addition, general obligation bonds issued as provided in Section 21(a) of this Act and after approval and registration as provided in this Act shall constitute general obligations of the state.

SECTION 32. RESERVE FUND.

(a) There may be created and established by the agency, with the State Treasurer of the State of Texas, a separate and special fund to be entitled the Texas housing agency reserve fund. The reserve fund may be used for the purpose of paying principal of and interest, and redemption premium, if any, on any of the agency's bonds secured by the reserve fund, or any account therein, in order to prevent or cure a default, if, when, and to the extent the revenues, income, and receipts of the agency are insufficient for such payment, and for such other purposes as are provided in any resolution authorizing the issuance of the agency's bonds. The agency may establish separate accounts within the reserve fund to secure and be applicable only to the agency's bonds for which they are established.

(b) It shall be an additional duty of the state treasurer, in the state treasurer's official capacity, ex officio, to accept the reserve fund, as custodian thereof, in accordance with the provisions of this section; but the reserve fund shall not be commingled with the General Revenue Fund of the state, or any other special funds or accounts in the state treasury, and the reserve fund shall not constitute or be a part of the state treasury. The reserve fund and any account therein shall be kept and maintained separate and apart from all other money, funds, deposits, and accounts, and shall be kept and held in escrow and in trust by the state treasurer, for and on behalf of, and charged with an irrevocable lien and pledge in favor of, the holders of the agency's bonds secured thereby; and the reserve fund shall be used only as provided in this Act. Legal title to the reserve fund shall be in the agency unless or until paid out as herein provided, but the state treasurer, as custodian, shall administer the reserve fund strictly and solely as provided in this Act and the agency's bond resolutions, and the state treasurer shall take no action with respect to the reserve fund other than that specified in this Act and in said bond resolutions.

(c) Out of proceeds from the sale and delivery of its first series or issue of bonds which are secured by the reserve fund, or from any other source available to it, the agency may provide for depositing into the reserve fund, or an account therein, such amount as is specified in the bond resolution, and thereafter the reserve fund, or such accounts therein, shall be increased to, when necessary, and maintained at, said amount with respect to all bonds at any time outstanding which are secured by the reserve fund, or such account therein. The board is authorized to establish the procedures for funding, increasing, and maintaining the reserve fund, or any account therein, and the operation and use of, and the priorities of bondholders in connection with, the reserve fund, or any account therein, in the resolutions authorizing the issuance of its bonds. The state treasurer shall be furnished certified copies of said bond resolutions, and the state treasurer shall comply therewith.

(d) Amounts in the reserve fund, or any account therein, at any time in excess of the amount then required to be on hand therein, whether by reason of investment or deposit earnings or otherwise, shall be paid by the state treasurer directly to, or upon the order of, the agency, upon written request by the agency, or disposed of and disbursed by the state treasurer as provided in any bond resolution of the agency.

(e) The state treasurer shall place the money in the reserve fund, or any account therein, in demand or time deposits, or invest said money in any direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the federal government, and such deposits and/or investments shall be made by the state treasurer at the places and in the amounts and manner as provided in written instructions from the agency as to the procedures and details thereof, or as provided in any bonds resolution of the

agency. If said money is placed in demand or time deposits, such deposits shall be secured at all times by the same type of obligations as those in which the reserve fund may be invested. Earnings from such deposits and investments shall be credited to the reserve fund, or the account therein from which the money was deposited or invested, or disposed of as provided in any bond resolution. Said investments shall be sold promptly by the state treasurer if and when necessary to prevent or cure any default in connection with the agency's bonds, as provided in this Act and the resolutions authorizing such bonds.

(f) The state treasurer's surety bond required by law, and conditioned that the state treasurer will faithfully execute the duties of the treasurer's office, shall be applicable to and cover the execution of the state treasurer's duties with respect to the reserve fund as required by this Act.

(g) Notwithstanding the foregoing provisions of this section, the agency may or may not, at its option, create or fund the reserve fund, and may issue its bonds which are not secured by the reserve fund, or any account therein, but which may be secured by any other or separate reserve fund or account to be kept at any place, or secured in any other manner provided in the agency's bond resolutions.

SECTION 33. PAYMENT ENFORCEABLE BY MANDAMUS.

The writ of mandamus, and all other legal and equitable remedies, shall be available to any party at interest to require the agency, the state treasurer, and any other party to carry out its or their agreements and to perform its or their functions and duties under this Act, the Texas Constitution or the agency's bond resolutions.

SECTION 34. REFUNDING BONDS

(a) Any bonds issued by the agency may be refunded, or otherwise refinanced, by the issuance by the agency of refunding bonds for such purpose, under such terms, conditions, and details as shall be determined by the board.

(b) All pertinent and appropriate provisions of this Act shall be applicable to such refunding bonds, and they may be issued in the manner provided herein for other bonds authorized under this Act; provided that such refunding bonds may be sold and delivered in amounts sufficient to provide for the payment of the principal, interest, and redemption premium, if any, of any bonds to be refunded, at maturity or on any redemption date, in accordance with such procedures as shall be determined by the board, and the comptroller of public accounts shall register such refunding bonds without the necessity of cancelling the bonds being refunded.

(c) Also, such refunding bonds may be issued to be exchanged for the bonds being refunded thereby. In any case where refunding bonds are to be exchanged, the comptroller of public accounts shall register the refunding bonds and deliver the same to the holder or holders of the bonds being refunded thereby, in accordance with the provisions of the resolution authorizing the refunding bonds; and any such exchange may be made in one delivery, or in several installment deliveries.

(d) Bonds issued by the agency also may be refunded in the manner provided by any other applicable statute, including V.A.T.C.S., Articles 717k and 717k-3.

SECTION 35. BONDS NEGOTIABLE INSTRUMENTS.

Notwithstanding any statute to the contrary, each bond and interest coupon issued and delivered by the agency is and constitutes a negotiable instrument within the meaning and for all purposes of the Texas Uniform Commercial Code, except that said bonds may be registered or subject to registration as permitted by this Act.

SECTION 36. PAYMENT OF AGENCY'S OBLIGATIONS.

It is the duty of the board to establish and collect sufficient fees and charges for services and facilities and to utilize all other available sources of revenues, income, and receipts, in order to pay all expenses of operation and maintenance of the agency, to pay the principal of and interest on its bonds, and to create and maintain the reserve fund and any other reserves or funds as provided in each resolution authorizing the issuance of its bonds. In any resolution authorizing the issuance of the agency's bonds the board may prescribe systems, methods, routines, and procedures under which the agency shall function, consistent with this Act.

SECTION 37. VALIDITY OF LIENS AND PLEDGES.

Each lien on or pledge of revenues, income, or other resources of the agency, or on the assets of the agency, or on the reserve fund, or other reserves or funds of the agency, as authorized by this Act, shall be valid and binding from the time of payment for and delivery of the bonds authorized by the resolution of the board creating or confirming any such lien or pledge. All such liens and pledges shall be fully effective as to items then on hand or thereafter received, and said items shall be subject to such liens or pledges without any physical delivery thereof or further act. All such liens and pledges shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the agency or other party, irrespective of whether such parties have notice thereof. Neither any resolution authorizing the issuance of bonds of the agency nor any other instrument by which any such lien or pledge is created or confirmed need be filed or recorded except in the records of the agency, and except that each bond resolution of the agency shall be submitted to the Attorney General of the State of Texas as required by Section 27 of this Act.

SECTION 38. BONDS NOT TAXABLE.

As set forth in this Act the agency will be performing an essential governmental function in the exercise of the powers conferred upon it by this Act, and the bonds of the agency issued pursuant to this Act, and the interest and income therefrom, including any profit made on the sale thereof, and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received, pledged to pay or secure the payment of such bonds, shall at all times be free from taxation and assessments of every kind by this state and by all public agencies.

SECTION 39. AUTHORIZED INVESTMENTS.

(a) All bonds issued by the agency under this Act shall be legal and authorized investments for all:

(1) banks;

(2) savings banks;

(3) trust companies;

(4) building and loan associations;

(5) savings and loan associations;

(6) insurance companies of all kinds and types;

(7) fiduciaries;

(8) trustees;

(9) guardians; and

(10) sinking and other public funds of the state, cities, towns, villages, counties, school districts, and other political subdivisions and public agencies of the state.

SECTION 40. SECURITY FOR DEPOSIT OF FUNDS.

All bonds also shall be eligible and lawful security for all deposits of public funds of the state and all public agencies, to the extent of the par or market value of said bonds, whichever is greater, when accompanied by any unmatured interest coupons appurtenant thereto.

SECTION 41. MUTILATED, LOST, STOLEN, DESTROYED BONDS.

The board may provide procedures for the replacement of any mutilated, lost, stolen or destroyed bond or interest coupon.

SECTION 42. NO GAIN ALLOWED.

Neither the administrator, chairman of the board, nor any director of the agency, for purposes of personal pecuniary gain, shall have or attempt to have any pecuniary interest in any transaction to which the agency is a party.

SECTION 43. NO DISCRIMINATION.

No person in the state shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act.

SECTION 44. LIBERAL CONSTRUCTION OF THE ACT.

This Act shall be construed liberally to effectuate the legislative intent and the purposes of this Act, and all powers herein granted shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

SECTION 45. CUMULATIVE EFFECT OF THE ACT; CONFLICTING LAWS.

This Act shall be cumulative of all other laws, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions, approvals, or limitations contained therein, except as herein specifically provided; and to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act shall prevail and control; provided, however, that the board shall have the right to use the provisions hereof, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

SECTION 46. SEVERABILITY CLAUSE.

In case any one or more of the sections, provisions, clauses, or words of this Act or the application of such sections, provisions, clauses, or words to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act or the application of such sections, provisions, clauses, or words to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

SECTION 47. APPROPRIATION. If the General Appropriation Act for the fiscal biennium ending on August 31, 1981, contains an appropriation for the administration of this Act, the validity of the appropriation is not affected by the fact that it refers to the Texas Housing Agency as the Texas Housing Finance Authority.

SECTION 48. AUTHORITY TO ISSUE GENERAL OBLIGATION BONDS CONTINGENT. Section 21(a) of this Act, to the extent it authorizes the issuance of general obligation bonds, takes effect if and when the Texas Constitution is amended to permit the issuance of such bonds as contemplated by that provision of this Act.

SECTION 49. EMERGENCY. 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.

The Conference Committee Report was read and filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT SENATE BILL 350

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 350** 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.

MAUZY
BROOKS
SANTIESTEBAN
VALE
On the part of the Senate

ATKINSON
COLEMAN
DAVIS
PEVETO
BLANTON
On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to public school education.

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

SECTION 1. Section 16.001, Texas Education Code, as amended, is amended to read as follows:

"Section 16.001. STATE POLICY. It is the policy of the State of Texas that the provision of public education is a state responsibility and that a thorough and efficient system be provided and substantially financed through state revenue sources so that each student enrolled in the public school system shall have access to programs and services that are appropriate to his or her educational needs and that are substantially equal to those available to any similar student, notwithstanding varying local economic factors [~~child shall have the opportunity to develop to his/her full potential. It is further the policy of this state that the value assigned to each school district for the purpose of determining the district's local share of its guaranteed entitlement under the Foundation School Program shall be equitably determined, notwithstanding the~~

~~various types of wealth within each district, so that no class of property is unfairly treated~~].''

SECTION 2. Subsection (b), Section 16.055, Texas Education Code, as amended, is amended to read as follows:

''(b) Contracts for personnel shall be made [~~Salaries shall be paid~~] on the basis of a minimum of 10 months service, which must include the number of days of instruction for students and days of inservice training and preparation for personnel required by Section 16.052 of this code. The days of inservice training and preparation required herein shall be conducted by local boards of education under rules and regulations established by the State Board of Education that are consistent with the state accreditation standards for program planning, preparation, and improvement. Personnel employed for more than 10 months shall be paid not less than the minimum monthly base pay plus increments for experience for each month of actual employment. Personnel employed for 11 months at pay grades 1-11 must render 202 [~~210~~] days of service, and personnel employed for 12 months at pay grades 1-11 must render 220 [~~230~~] days of service. Personnel employed for 11 months at pay grades 12-18 must render 207 days of service, and personnel employed for 12 months at pay grades 12-18 must render 226 days of service. However, the number of days of service required by this subsection may be reduced by the commissioner under Section 16.052(b) of this code, and the reduction shall not reduce the total salaries of personnel.''

SECTION 3. Section 16.101, Texas Education Code, as amended, is amended to read as follows:

''Section 16.101. PERSONNEL SUPPORT: GENERAL RULES. A school district's entitlement for personnel support is equal to the aggregate minimum salaries required by law for personnel units allotted to the district in accordance with the provisions of this subchapter. [~~For the 1975-1976 and 1976-1977 school years, no school district with fewer than 1,000 students in average daily attendance shall receive fewer professional units for its regular education program than it received for the 1974-1975 school year.~~]''

SECTION 4. Sections 16.056(a), (b), (c), (d), (g), and (h), Texas Education Code, as amended, are amended to read as follows:

''(a) School district personnel who are qualified for and employed in positions authorized in Subsection (d) of this section shall be paid not less than the monthly base salary, plus increments for teaching experience, for the applicable pay grade computed on the basis of the salary index set forth in Subsection (c) of this section except as otherwise provided by this subsection. The value of each cell in the salary index shall be determined by multiplying the index factor for the cell by $997 [~~$940~~] for the 1979-1980 [~~1977-1978~~] school year and by $1,048 [~~$949~~] for each school year thereafter, or by such greater sum as may be provided by the General Appropriations Act. The minimum salary for school district personnel who do not advance one step over the prior year shall be 102 percent of the minimum salary specified for the step in which the individual is placed.

''(b) An [~~For the 1977-1978 school year each~~] individual [~~shall be placed in the salary step immediately above the one occupied during the 1976-1977 school year and~~] shall advance one step for each year of experience [~~thereafter~~] until step 10 is reached. [~~For the 1977-1978 school year persons who have served in step 10 for at least two years shall advance to step 11, and for the 1978-1979 school year persons who have served in step 10 or higher for at least four years shall advance to step 12.~~] Thereafter, a person must serve at step 10 for two years before advancing to step 11, at step 11 for two years before advancing to step 12, [~~and~~] at step 12 for two years before advancing to step 13, and at step 13 for two years before advancing to step 14.

"(d) The positions, pay grades, titles, and except as otherwise authorized by law, the number of annual contract months [~~authorized~~] for each position under the Texas Public Education Compensation Plan are as follows:

Pay Grade	No. Months Paid	Class Title
1	10	Educational Aide I
1	10	Educational Secretary I
2	10	Educational Aide II
2	10	Educational Secretary II
3	10	Educational Aide III
3	10	Educational Secretary III
4	10	Teacher Trainee I
5	10	Teacher Trainee II
5	10	Certified Nondegree Teacher
7	10	Nurse, R.N. and/or Bachelor's Degree
7	10	Special Education Related Service Personnel, Bachelor's Degree
7	10	Teacher, Bachelor's Degree
7	10 11 12	Vocational Teacher, Bachelor's Degree and/or Certified in Field
7	10	Librarian I, Bachelor's Degree
7	10	Visiting Teacher I, Psychological Associate, Bachelor's Degree
8	10	Special Education Related Service Personnel, Master's Degree
8	10	Teacher, Master's Degree
8	10 11 12	Vocational Teacher, Master's Degree
8	10	Librarian II, Master's Degree
8	10	Physician, M.D.
9	10	Teacher, Bachelor of Laws or Doctor of Jurisprudence Degree
9	10	Teacher, Doctor's Degree
9	10	Special Duty Teacher, Master's Degree
10	10	Educational Diagnostician
10	10	Visiting Teacher II, Master's Degree
10	10	Counselor I, Psychologist
10	10	Supervisor I
10	10	Part-time Principal—11 or fewer teachers on campus
10	10	Instructional/Administrative Officer I
11	10	Assistant Principal—20 or more teachers on campus
11	10	Instructional/Administrative Officer II
12	11	Principal—19 or fewer teachers on campus

12	10	Instructional/Administrative Officer III
13	11	Principal—20-49 teachers on campus
13	11 [~~12~~]	Instructional/Administrative Officer IV
14	11	Principal—50-99 teachers on campus
14	12	Principal—100 or more teachers on campus
14	12	Instructional/Administrative Officer V
14	12	Superintendent—District with 400 or less ADA
15	12	Instructional/Administrative Officer VI
15	12	Superintendent—District with 401-3,000 ADA
16	12	Instructional/Administrative Officer VII
16	12	Superintendent—District with 3,001-12,500 ADA
17	12	Instructional/Administrative Officer VIII
17	12	Superintendent—District with 12,501-50,000 ADA
18	12	Superintendent—District with 50,000 or more ADA"

"(g) Each person employed in the public schools of this state who is assigned to a position classified under the Texas Public Education Compensation Plan [~~at pay grade 4 or above for purposes of the Foundation School Program~~] must be certified according to the certification requirements or [~~and/or~~] standards for each position as established by rule adopted by the State Board of Education [~~the Central Education Agency. The board of trustees of each school district shall adopt policies establishing the requirements and specifying the duties of each person employed in a position classified at pay grade 1, 2, or 3~~].

"(h) The State Board of Education shall prescribe [~~above pay grade 3~~] the general duties and required preparation and education for the positions listed in Subsection (d) of this section."

SECTION 5. Subsection (n), Section 16.102, Texas Education Code, as amended, is amended to read as follows:

"(n) Notwithstanding Subsections (d) and (e) of this section, a school district that has 1,000 or fewer students in average daily attendance shall be allotted not less than 12 personnel units if it offers a kindergarten through grade 12 program and has a prior year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district. A district offering a kindergarten through grade 8 program whose prior year's average daily attendance was at least 50 students or is 30 miles or more by bus route from the nearest high school district shall be allotted not less than 7.2 personnel units. Not less than 4.2 personnel units shall be allotted if a district offers a kindergarten through grade 6 program and has a prior year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school district. In addition, each school district that has 1,000

or fewer students in average daily attendance shall be allotted .6 personnel unit to be used cooperatively with other districts to provide support services necessary to meet accreditation standards. [~~For the 1977-1978 school year and each year thereafter, any school district that needs additional units to meet accreditation standards established by the Central Education Agency may apply for additional personnel units to the commissioner of education. The commissioner shall review these requests and may allocate these units. For purposes of this subsection, the commissioner is hereby allocated 200 personnel units to be distributed annually to qualifying districts based on such requests.~~]"

SECTION 6. Subsection (f), Section 16.103, Texas Education Code, as amended, is amended to read as follows:

"(f) Vocational professional unit allotments, except classroom teachers who also served as part-time vocational teachers, shall be made in addition to other professional unit allotments. Any school district may, with the commissioner's approval, utilize its vocational professional unit allotments to employ vocational teachers, vocational supervisors, vocational counselors, and job placement coordinators on a 10-, 11-, or 12-month basis, in accordance with rules adopted by the State Board of Education. [~~Notwithstanding anything to the contrary, vocational~~] Vocational administrative units shall be approved on a 12-month contract, based on need [~~basis, and vocational supervisor and vocational counselor units shall be approved up to an 11-month contract basis, based on program needs~~]. In addition to the regular operating allowance, there shall be an additional allocation of $400 for each vocational teacher unit which shall be used for instructional materials related to vocational education programs operated by the district."

SECTION 7. Section 16.104, Texas Education Code, as amended, is amended to read as follows:

"Section 16.104. COMPREHENSIVE SPECIAL EDUCATION PROGRAM FOR HANDICAPPED CHILDREN. (a) The commissioner of education, with the approval of the State Board of Education, shall develop, and modify as necessary, a statewide design for the delivery of services to handicapped children in Texas which includes rules for the administration and funding of the special education program so that a free [~~an~~] appropriate public education is available to all handicapped children between the ages of three and 21 by no later than September 1, 1980. The statewide design shall include, but may not be limited to, the provision of services primarily through local school districts and special education cooperatives, supplemented by a regional delivery structure [~~and special allotments for districts impacted by residential or hospital placements~~]. The commissioner shall further develop and implement a statewide plan with programmatic content which includes procedures designed to:

"(1) ensure state compliance with requirements for supplemental federal funding for all state-administered programs involving the delivery of instructional or related services to handicapped students as defined in this section;

"(2) facilitate interagency coordination when state agencies other than the Central Education Agency are involved in the delivery of instructional or related services to handicapped students;

"(3) assess statewide personnel needs in all areas of specialization related to special education on a periodic basis and pursue strategies to meet those needs through a consortium of representatives from regional education service centers, local education agencies, and institutions of higher education and through other available alternatives;

"(4) ensure that regional education service centers throughout the state maintain a regional support function, which may include direct service

delivery and a component designed to facilitate the placement of handicapped students who cannot be appropriately served within their resident districts;

"(5) allow the Central Education Agency to effectively monitor and periodically conduct site visits of all local districts to ensure that agency rules adopted under this section are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts are accurate and complete;

"(6) ensure the availability of sequentially related, field-based, inservice special education training programs for regular and special educators serving handicapped students and further ensure that all local districts dedicate at least the equivalent of one full day of their required inservice program per school year to that special education inservice training for those personnel;

"(7) ensure that appropriately trained personnel are involved in the diagnostic and evaluation procedures operating in all local districts and that those personnel routinely serve on local district admissions, review, and dismissal teams;

"(8) ensure that an individualized education plan for each handicapped student is properly developed, implemented, and maintained in the least restrictive environment which is appropriate to meet the student's educational needs;

"(9) ensure that, when appropriate, each handicapped student is provided an opportunity to participate in vocational and physical education classes, in addition to participation in regular or special classes; and

"(10) ensure that each handicapped student is provided necessary related services.

"(b) As used in this section:

"(1) 'Special services' means:

"(A) 'special teaching,' which may be provided by professional and paraprofessional personnel in the following instructional settings:

"(i) resource room;

"(ii) self-contained classroom, regular or special campus;

"(iii) hospital or community class;

"(iv) homebound or bedside;

"(v) speech or hearing therapy class; or

"(B) 'related services,' which are developmental, corrective, supportive, or evaluative services, not instructional in nature, that may be required for the proper development and implementation of a handicapped student's individualized educational plan, including but not limited to special transportation, school health services, counseling with students or families, psychological services, audiological services, visual training, medical or psychiatric diagnostic services, occupational therapy, physical therapy, recreational therapy, social work services, parent counseling and training, adaptive equipment, special seating, orientation and mobility training, speech therapy, music therapy, and corrective therapy.

"(2) 'Resident district' means the local school district in which the parent or other person who has the primary legal obligation for care, control, and custody of a handicapped student resides, except that if the state is managing conservator of the student, the resident district is the district within which the student is placed by the state.

"(c) The commissioner, with the approval of the State Board of Education, shall develop specific eligibility criteria based on the general classifications established by this section with reference to contemporary diagnostic or

evaluative terminologies and techniques. Eligible handicapped students shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through contracts approved under this section. Instruction shall be supplemented by the provision of related services when appropriate. The following classifications of handicapped students shall serve as the general eligibility criteria for participation in a district's special education program:

"(1) 'Handicapped students [~~children~~]' means students [~~children~~] between the ages of 3 and 21, inclusive;[~~,~~]

"(A) with educational handicaps (physically handicapped, auditorially handicapped, visually handicapped [~~physical~~], mentally retarded, emotionally disturbed, [~~and/or children with language and/or~~] learning disabled, speech handicapped, autistic, or multiply handicapped) [~~disabilities) as hereinafter more specifically defined~~]; [~~autistic children;~~] and children leaving and not attending public school for a time because of pregnancy; and

"(B) whose disabilities are so limiting as to require the provision of special services in place of or in addition to instruction in the regular classroom [~~which render regular services and classes of the public schools inconsistent with their educational needs~~].

"(2) 'Physically handicapped students [~~children~~]' means students [~~children of educable mind~~] whose body functions or members are so impaired from any cause that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

"(3) 'Auditorially handicapped students' means students whose hearing is so impaired that they cannot be adequately educated in the regular classes of the public schools without the provision of special services. [~~'Mentally retarded children' means children whose mental capacity is such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.~~]

"(4) 'Visually handicapped students' means students whose sight is so impaired that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

"(5) 'Mentally retarded students' means students with significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior and manifested during the developmental period such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

"(6) [~~(4)~~] 'Emotionally disturbed students [~~children~~]' means students [~~children~~] whose emotional condition is [~~medically and/or~~] psychologically or psychiatrically determined to be such that they cannot be adequately and safely educated in the regular classes of the public schools without the provision of special services.

"(7) 'Learning [~~(5) 'Language and/or learning~~] disabled students [~~children~~]' means students:

"(A) who demonstrate a significant discrepancy between academic achievement and intellectual abilities in one or more of the areas of oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematics calculation, mathematics reasoning, or spelling;

"(B) for whom it is determined that the discrepancy is not primarily the result of visual handicap, hearing impairment, mental retardation, emotional disturbance, or environmental, cultural, or economic disadvantage; and

"(C) for whom the inherent disability exists to a degree such that they cannot be adequately served in the regular classes of the public schools without the provision of special services [~~children who are so deficient in the acquisition of language and/or learning skills including, but not limited to, the ability to reason, think, speak, read, write, spell, or to make mathematical calculations, as identified by educational and/or psychological and/or medical diagnosis that they must be provided special services for educational progress. The term 'language and/or learning disabled children' shall also apply to children diagnosed as having specific development dyslexia~~].

"(8) 'Speech handicapped students' means students whose speech is so impaired that they cannot be adequately educated in regular classes of the public schools without the provision of special services.

"(9) 'Autistic students' means students whose disturbances of speech and language, relatedness, perception, developmental rate, and motility are such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

"(10) 'Multiply handicapped students' means students handicapped by any two or more of the handicapping conditions described in Subdivisions (2) through (9) of this subsection that may result in multisensory or motor deficiencies and developmental lags in the cognitive, affective, or psychomotor areas such that they cannot be adequately educated in the regular classes of the public schools without the prvision of special services.

[~~(6) 'Special services' required for the instruction of or program for handicapped children means special teaching in the public school curriculum inside and/or outside the regular classroom; corrective teaching, such as lipreading, speech correction, sight conservation, corrective health habits; transportation, special seats, books, instructional media, and supplies; professional counseling with students and parents; supervision of professional services and pupil evaluation services; established teaching techniques for children with language and/or learning disabilities.~~]

"(d) [~~(c)~~] (1) Except as provided in Subdivision (2) [~~(3)~~] of this subsection a school district is allocated 30 special education personnel units for the first 3,000 students in refined average daily attendance, one special education personnel unit for each additional 100 students in refined average daily attendance up to a total of 6,000 students in refined average daily attendance, and .85 [~~4.25~~] special education personnel unit [~~units~~] for each additional 100 [~~500~~] students in refined average daily attendance thereafter. The units may be used only for personnel listed in Subsections (e) [~~(d)~~] and (f) [~~(e)~~] of this section.

[~~(2) Activation of personnel units shall be based on the following schedule:~~

~~Personnel~~	~~Personnel Unit~~
~~Special Education Teachers~~	~~1~~
~~Teacher Aides~~	
~~Level I~~	~~.55~~
~~Level II~~	~~.6~~
~~Level III~~	~~.75~~
~~Support Personnel~~	~~1.2~~]

"(2) [~~(3)~~] If less than 12 percent of the district's students are identified as eligible handicapped students [~~children~~] and provided with special services by the district's special education personnel, the number of special education personnel units to which the district is entitled under Subdivision (1) of this subsection shall be reduced to a percent of full allocation based on the percent of students served according to the following schedule:

Percent served	Percent of full allocation
12%	100%
11%	94%
10%	88%
9%	82%
8%	76%
7%	70%
6%	63%
0-5% set by commissioner, not to exceed	56%

"(3) [~~(4)~~] The percent of students served is determined by dividing the number of identified and eligible handicapped students [~~children~~] served by the district's special education personnel [~~district~~] by the district's refined average daily attendance and rounding the dividend to the nearest 10th. A district that serves less than 12 percent of the students in refined average daily attendance is entitled to an increase in the percent of allocation for a percent of students served specified in the schedule above equal to one percent of full allocation for each additional one-tenth of one percent of the students served but not exceeding the allocation specified on the schedule for the next highest percent of students served.

"(4) Local districts may receive an additional allocation of $100 per personnel unit as a start-up allocation during the first year of a new unit's activation.

"(5) In addition to all other allocations authorized in this section, any local district may receive supplemental special education personnel unit allocations through application by the district to the commissioner of education. The application shall include a thorough demonstration of the particular needs which justify the requested supplemental allocation. Under rules adopted by the State Board of Education, the commissioner may approve the allocations on a discretionary basis, having primary regard for those requests which demonstrate such circumstances as:

"(A) an unusually high concentration of handicapped students or an unusually high concentration of severely handicapped students eligible to receive services required by law to be provided by the applicant district's personnel and to whom the actual demonstrated cost of providing an appropriate education to those students either individually or collectively overcomes the district's ability to meet those needs after a proper utilization of that district's allocations under this section;

"(B) an unusual cost burden imposed on a rural school district due to the difficulty involved in serving handicapped students in sparsely populated areas; or

"(C) an unusual difficulty involved in the administration of a special education cooperative which indicates a need for additional support personnel [~~Any funds which may become available in excess of those required to fully fund the provisions of this section may be used to provide additional special education units which shall be allocated based on an application for the funds by the local district. The application shall include a thorough assessment of the local district's particular needs which justify the allocation of additional personnel units~~].

"(6) Each local district is entitled to a basic support allocation of $400 for each personnel unit activated under this section. Local districts may expend these funds to provide special instructional materials and related services or for consultant services, pupil evaluation services, or personnel travel in multicounty or multicity school districts in accordance with rules adopted by the State Board of Education.

"(7) [~~(6)~~] Any personnel units allocated under this subsection but not utilized by the local district may be reallocated by the commissioner in the manner described in Subdivision (5) of this subsection.

"(e) [~~(d)~~] Professional personnel for the operation and maintenance of a program of special education shall be:

"(1) handicapped students [~~children~~] teachers, including itinerant teachers whose duties may or may not be performed in whole or in part on the campus of a school;

"(2) special education related service personnel, including occupational therapists, physical therapists, nurses, orientation and mobility instructors, and other noneducational personnel who are otherwise professionally licensed by state or national certification recognized by the commissioner of education [~~directors~~]; and

"(3) special education support personnel, including special education directors, special education supervisors, special education counselors, special education visiting teachers, psychologists, educational diagnosticians, and other pupil evaluation specialists [~~supervisors;~~

[~~(4) special education counselors;~~

[~~(5) special service teachers, such as itinerant teachers of the homebound and visiting teachers, whose duties may or may not be performed in whole or in part on the campus of any school; and~~

[~~(6) psychologists, educational diagnosticians, and other pupil evaluation specialists. The minimum salary for such specialist to be used in computing salary allotment for purposes of this section shall be established by the commissioner of education~~].

"(f) [~~(e)~~] Paraprofessional personnel for the operation and maintenance of a program of special education shall consist of persons engaged as teacher aides, who may or may not hold a teacher certificate. [~~The qualifications, and minimum salary levels of paraprofessional personnel for salary allotment purposes of this section shall be established by the commissioner of education. The annual salary for a special education teacher aide engaged in a 10, 11, or 12 months special education program approved by the commissioner of education shall be the approved monthly base salary, plus increments for experience, multiplied by 10, 11, or 12, as applicable.~~]

"(g) Certification standards for professional and paraprofessional personnel authorized in Subsections (e) and (f) of this section shall be developed by the commissioner, approved by the State Board of Education, and reviewed periodically. The standards shall be independent of certification or endorsement in other fields and shall include requirements for additional training and recertification as necessary.

"(h) Except as provided by Subsection (i) of this section, the minimum salary levels, months of service, and personnel unit values for all authorized personnel shall be determined by the provisions of Section 16.056 of this code. If positions authorized in this section are not specifically provided for in Section 16.056, the commissioner shall add those positions to the Texas Public Education Compensation Plan in accordance with Subsection (c) of Section 16.056 of this code.

[~~(f) Any school district, at its expense, may employ any special education personnel in excess of its state allotment and may supplement the minimum salary allotted by the state for any special education personnel, and any district is authorized at local expense to pay for all or part of further or continuing training or education of its special education personnel.~~]

"(i) [~~(g)~~] Special education unit personnel may be employed [~~and/or utilized~~] on a full-time, part-time, or consultative basis[~~, or may be allotted by~~

~~the commissioner of education, pursuant to cooperative districts' agreement, jointly to serve two or more school districts~~]. Any school district may, with the commissioner's approval, utilize its personnel unit allocations to employ authorized personnel on a 10-, 11-, or 12-month basis in accordance with rules adopted by the State Board of Education. Handicapped students' teachers, paraprofessional personnel, or related service personnel employed on an extended basis under this subsection shall, during the extended period of their contract, only be engaged in pupil evaluations or in direct service delivery to handicapped students for which the disruption of continuous services may result in severe regression. [~~Two or more school districts may operate jointly their special education program and any school district may contract where feasible with any other school district for all or any part of the program of special education for the children of either district, under rules and regulations established by the commissioner of education.~~]

"(j) In accordance with rules adopted by the State Board of Education, local districts may jointly operate their special education programs. Personnel units and other funds to which the cooperating districts are entitled under this section may be allocated to the districts jointly as cooperative units or cooperative funds in accordance with the cooperative districts' agreement.

"(k) Any local district, special education cooperative, or regional education service center may contract with any public or private facility, institution, or agency within or outside of this state for the provision of services to handicapped students under rules adopted by the State Board of Education. Contracts for residential placements, including placements with the Texas Department of Mental Health and Mental Retardation and its community facilities, Texas School for the Blind, Texas School for the Deaf, and other public or private agencies, institutions, or facilities, shall be approved by the commissioner. The rules shall provide for approval of residential placement contracts only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. Either the whole or a part of a facility or program may be approved. Rules relating to the residential contract approval process shall include provisions designed to ensure that no contract is approved which:

"(1) involves the delivery of unapproved services;

"(2) involves the delivery of services which the district is capable of providing or is developing the capability to provide; or

"(3) is not cost-effective when compared with other alternatives.

"(l) Except as provided by Subsection (m) of this section, contracts for residential placements when approved may be paid for from a combination of federal, state, and local funds. The local share of the total contract cost per pupil is that portion of the local tax effort (total dollars generated by debt service and maintenance taxes) which exceeds the district's local fund assignment, divided by the average daily attendance in the district. If the contract involves a private facility, the state share of the total contract cost is that which remains after subtracting the local share. If the contract involves a public facility other than a program or facility administered by the Central Education Agency, the state share is that which remains after subtracting the local share from that portion of the contract which involves the costs of instructional and related services. If the contract involves a program or facility administered by the Central Education Agency, there is no state share paid from this program.

"(m) If the state is managing conservator of a student placed in a private residential facility, the total cost of the residential placement shall be paid from state and federal funds. If the contract involves a public facility other than a program or facility administered by the Central Education Agency, the total of

that portion of the contract which involves the costs of instructional and related services shall be paid from state and federal funds. If the contract involves a program or facility administered by the Central Education Agency, there is no state share paid from this program. The State Board of Education shall adopt rules governing the use of federal funds as supplemental or partial payment of the local or state share under Subsections (l) and (m) of this section.

"(n) The resident district has the ultimate responsibility for providing or causing the provision of appropriate services to each handicapped student. If the district contracts for the provision of services rather than providing the services of its own accord, then that district retains the responsibility of overseeing the implementation of the student's individualized education plan as well as the responsibility of an annual reevaluation of the appropriateness of the arrangement. An approved facility, institution, or agency with whom the district contracts shall assume as a part of the contract the responsibility of providing the district with periodic reports of services the student has received or will receive in accordance with the terms of the contract as well as diagnostic or other evaluative information which the district requires in order to fulfill its obligations under this section. The State Board of Education shall adopt rules designed to effectuate this subsection.

[~~(h) Each school district is entitled to an allotment for special materials and consultant and appraisal services of not less than $500 for each special education teacher employed to fill a personnel unit allocated to the district under Subsection (c) of this section. Funds allocated must be spent in accordance with the guidelines established for at least one of the above mentioned services as defined by the commissioner. Funds for the purposes stated above may be allocated to regional education service centers for the cooperative use of school districts.~~

[~~(i) The minimum monthly base pay and increments for teaching experience for a handicapped children teacher or a special service teacher conducting a 10, 11, or 12 months special education program approved by the commissioner of education shall be the same as that of a classroom teacher as provided in Subchapter B of this chapter; provided that special education teachers shall have qualifications approved by the commissioner of education. The annual salary of special education teachers shall be the monthly base salary, plus increments, multiplied by 10, 11, or 12, as applicable.~~

[~~(j) The minimum monthly base pay and increments for teaching experience for special education counselors, supervisors, evaluation personnel, and directors engaged in a 10, 11, or 12 months special education program approved by the commissioner of education shall be the same as that of a counselor, supervisor, evaluator, or director as provided in Subchapter B of this chapter; provided that such counselors, supervisors, evaluation personnel, and directors shall have qualifications approved by the commissioner of education. The annual salary of special education counselors, supervisors, evaluation personnel, and directors shall be the monthly base salary, plus increments, multiplied by 10, 11, or 12, as applicable.~~]

"(o) [~~(k)~~] The salary costs of special education teacher units, other professional and paraprofessional units authorized in [~~Subsections (c), (d), and (e) of~~] this section, [~~and~~] operating costs as provided in Subsection (d)(6) of this section and state-portion contract costs as provided in Subsections (l) and (m) of this section [~~(h)~~], computed as other costs of the Foundation School Program for local fund assignment purposes, shall be paid from the Foundation School Program [~~School~~] Fund. Provided further, that any school district may supplement any part of the comprehensive special education program it operates or participates in with funds or resources [~~sources~~] available to it from local

sources, public or private. Local enrichment may take the form of but is not limited to employing personnel in excess of the state allocation or supplementing minimum salaries of any personnel employed by the district, and any district may at local expense pay for all or part of further or continuing training or education of its special education personnel.

[~~(l) Under rules and regulations of the State Board of Education, eligible school districts, special education cooperatives, and regional education service centers may contract with nonprofit community mental health or mental retardation centers, public or private, or any other nonprofit organization, institution, or agency approved by the State Board of Education, for the provision of services to handicapped children as defined by this section, who reside with their parents or guardians.~~]

"(p) [~~(m)~~] The legislature shall set a limit on the amount of funds that may be expended under the provisions of this section each year in the General Appropriations Act. Should the amount of funds required to fully fund the provisions of this section pursuant to the rules and regulations of the State Board of Education exceed the amount set by the legislature, the commissioner, with the approval of the board, shall make such adjustments as are necessary to reduce the total cost of the special education program to the limit set by the legislature. The commissioner may make allocations under Subsection (d)(5) of this section not to exceed $3 million a year from the sum appropriated to fund the provisions of this section. The restriction on the dollar amount available under Subsection (d)(5) of this section does not apply to any funds remaining from the sum appropriated after all other allocations are made or to the remaining balance of unexpended funds carried over from the previous fiscal year. [~~The commissioner shall make further adjustments as necessary to ensure that, for the 1977-1978 school year, no school district which serves less than 12 percent of its students in special education programs, as determined in accordance with the provisions of Subsection (c) of this section, shall receive an allocation of special education personnel units that is smaller than that district's allocation for the 1976-1977 school year, unless that district is serving a smaller percentage of handicapped children in the 1977-1978 school year than it did in the 1976-1977 school year; and that no school district which serves more than 12 percent of its students in special education programs, as determined in accordance with the provisions of Subsection (c) of this section, shall receive an allocation of special education personnel units that is smaller than that district's allocation for the 1976-1977 school year.~~]

"(q) [~~(n)~~] The commissioner, with the approval of the State Board of Education, shall adopt rules necessary to ensure that services to handicapped children shall be provided first to handicapped children not receiving an education and then to handicapped children, within each disability, with the most severe handicaps, who are receiving an inadequate education. The State Board of Education shall approve the definitions of levels of severity that the commissioner develops for the purposes of this subsection. The commissioner shall further develop rules necessary to ensure that sufficiently detailed records are kept and reports received to allow meaningful evaluation of the effectiveness of the policies and procedures adopted under this subsection."

SECTION 8. Section 16.151, Texas Education Code, as amended, is amended to read as follows:

"Section 16.151. OPERATING COST ALLOTMENT. Each school district shall be allotted $128 [~~$110~~] for each student in average daily attendance during the 1979-1980 [~~1977-1978~~] school year and $139 [~~$115~~] for each student in average daily attendance each school year thereafter."

SECTION 9. Section 16.176, Texas Education Code, as amended, is amended to read as follows:

"Section 16.176. SUPPORT FOR EDUCATIONALLY DISADVANTAGED PUPILS. (a) In this section 'educationally disadvantaged pupils' are pupils who are eligible for the free and reduced lunch program under the provisions of the National School Lunch Program [~~Federal Compensatory Education Aid under the provisions of Title I of the Federal Elementary and Secondary Education Act~~]. The commissioner of education with the approval of the State Board of Education shall review the standards established for educationally disadvantaged pupils and adjust the standards if they perpetuate inequities or become obsolete.

"(b) Each school district which is eligible and which also receives aid under the National School Lunch Program [~~receives federal compensatory education aid~~] is eligible to receive an allotment of $44 [~~$40~~] for each educationally disadvantaged pupil enrolled in its public schools. For purposes of the allocation made pursuant to this section, the number of educationally disadvantaged pupils in each district shall be determined by averaging the best six months' enrollment in the free and reduced lunch program for the 1978-1979 school year.

"(c) Beginning with the 1979-1980 school year, and each year thereafter the Central Education Agency shall adopt and administer appropriate criterion referenced assessment instruments designed to assess minimum basic skills competencies in reading, writing, and mathematics for all pupils at the fifth grade level and shall also adopt and administer to all ninth grade pupils, secondary exit level assessment instruments designed to assess minimum mathematics and English language arts competencies which it deems appropriate for a high school graduate. All ninth grade students who fail to demonstrate mastery of minimum exit level competencies shall be given the opportunity to retake the assessment instrument each year the assessment instrument is administered. Beginning with the 1980-1981 school year and each year thereafter, the Central Education Agency shall adopt and administer appropriate criterion referenced assessment instruments designed to assess basic skills competencies among all students at the third grade level. In addition to the assessment instruments adopted and administered by the Central Education Agency, a local school district may adopt and administer criterion and/or norm referenced assessment instruments at any grade level. Any student who has a physical or mental impairment or a learning disability that prevents the student from mastering the competencies which the assessment instruments are designed to measure may be exempted from the requirements of this section.

"(d) In adopting assessment instruments pursuant to this section, the Central Education Agency and/or a local school district shall insure the security of the instruments in their preparation, administration, and grading. Meetings or portions of meetings held by the Central Education Agency and/or a local school district at which individual assessment instruments or assessment instrument items are discussed or adopted are not open to the public under Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the assessment instruments and items are confidential.

"(e) The results of individual student performance on assessment instruments administered pursuant to this section are confidential and may be made available only to the student, the student's parent or guardian, and to the school personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by campus and district and made available to the public, with appropriate interpretations, at regularly scheduled meetings of the governing board of each school district. The

information may not contain the names of individual students or teachers. The commissioner of education shall compile all of the data and report it to the legislature, lieutenant governor, and governor no later than January 1 of each odd-numbered year.

"(f) Each school district shall utilize the student performance data resulting from the assessment instruments administered pursuant to this section to design and implement appropriate compensatory instructional services for students in the district's schools and shall submit an annual report to the commissioner of education which describes how state compensatory funds received pursuant to this section have been used to provide for those services.

"(g)[~~(e)~~] If the total amount of compensatory education aid required by this section exceeds $42,900,000 [~~$25,400,000~~] per year, each district's allotment shall be reduced proportionately until the amount of aid allocated equals $42,900,000 [~~$25,400,000~~] per year."

SECTION 10. Subchapter E, Chapter 16, Texas Education Code, as amended, is amended by adding Section 16.106 to read as follows:

"Section 16.106. SUPPORT FOR FAST-GROWING SCHOOL DISTRICTS. (a) It is the purpose of this section to provide state aid to local school districts which experience unusually rapid growth in student enrollment from one year to the next so as to assist those districts in sustaining an adequate educational program for all students.

"(b) A district is eligible to receive aid under this section if:

"(1) the district's effective tax rate as determined under Subsection (c) of this section is greater than the statewide average effective tax rate as determined under that subsection;

"(2) the district's current year's total number of students in average daily attendance as determined under Section 16.102 of this code is equal to or greater than 106 percent of its prior year's total number of students in average daily attendance; and

"(3) the district raises its local fund assignment.

"(c) For purposes of this section, a district's effective tax rate shall be determined by dividing the total amount of ad valorem tax revenue collected in the immediately preceding school year in the district by the total value of property which is used to calculate the district's local fund assignment. The statewide average effective tax rate shall be determined by dividing the total amount of ad valorem tax revenue collected by all the school districts in the state in the immediately preceding school year by the total index value of property in the state as determined pursuant to Section 11.86 of this code. For the 1979-1980 and 1980-1981 school years, the index values used herein shall be determined in accordance with Section 16.252(b) of this chapter.

"(d) For the 1979-1980 school year and for each school year thereafter, the amount of state aid for each eligible school district under this section shall be determined by the formula:

$$FGA = \frac{PDG}{.06 - 1 \times CADA \times \$30}$$

where

"'FGA' is the district's fast growth allotment;

"'PDG' is the percentage of the district's student growth, as determined by dividing the difference between the district's current and previous year's number of students in average daily attendance by the district's previous year's number of students in average daily attendance; and

"'CADA' is the district's current year's number of students in average daily attendance as determined under Section 16.102 of this code.

"(e) If the district's index value per student in average daily attendance as determined under Section 16.252(b) of this code is more than $150,000 for each student in average daily attendance, the state aid provided in this section shall be determined by multiplying the following fraction to the otherwise computed amount:

$$1 - \frac{\text{(District's index value per ADA - \$150,000)}}{\$100,000}.$$

"(f) If the total amount of state aid under Subsections (d) and (e) of this section exceeds $2.5 million per year, each district's allotment shall be ratably reduced until the amount of state aid allocated equals $2.5 million per year.

SECTION 11. Subchapter E, Chapter 16, Texas Education Code, as amended, is amended by adding Section 16.178 to read as follows:

"Section 16.178. SUPPORT FOR DEMONSTRATION PROGRAMS FOR THE GIFTED AND TALENTED. (a) The purpose of this section is to provide state assistance to local school districts or combinations of school districts, pursuant to Section 11.19 of this code, for the establishment of demonstration programs for gifted and talented students in various regions of the state.

"(b) Any school district or combination of school districts may make application to the state director of programs for the gifted and talented pursuant to Section 11.19 of this code.

"(c) If the total cost of all approved demonstration programs for the gifted and talented exceeds the amount provided by Subsection (d) of this section, the allotment for each approved demonstration program shall be ratably reduced until the total amount of state aid allocated equals the applicable amount.

"(d) For the 1979-1980 school year, the maximum allotment under this section shall be $2 million. For the 1980-1981 school year, the maximum allotment shall be $3 million. Thereafter, the maximum allotment shall be set in the General Appropriations Act."

SECTION 12. Sections 16.202, 16.203, 16.204, 16.206, 16.207, and 16.210, Texas Education Code, as amended, are amended, and Section 16.212 is added to read as follows:

"Section 16.202. PUBLIC SCHOOL TRANSPORTATION SYSTEM. (a) The county school boards, where funded under law, or local district school boards, subject to approval by the state commissioner of education, are authorized to establish and operate an economical public school transportation system within their respective counties or school districts.

"(b) In establishing and operating such transportation systems, the county or local district school boards shall:

"(1) requisition buses and supplies from the state board of control as provided for in this subchapter;

"(2) prior to June 1 of each year, with the commissioner's approval, establish school bus routes in their respective counties or districts for the succeeding school year;

"(3) employ school bus drivers certified in accordance with standards and qualifications promulgated jointly by the Central Education Agency and the Texas Department of Public Safety as required by law; and

"(4) be responsible for the maintenance and operation of school buses.

"Section 16.203. COUNTY AND DISTRICT TRANSPORTATION FUNDS. [~~(a)~~] State warrants for transportation, payable to the county or district

school transportation fund [~~in each county~~], shall be for the total amount of transportation funds for which the county or district is eligible under the provisions of this subchapter.

[~~(b) When requested by the board of trustees of an independent school district, the county school board shall authorize an independent district to:~~

[~~(1) employ its school bus drivers;~~

[~~(2) be responsible for the maintenance and operation of its school buses; and~~

[~~(3) receive transportation payments directly from the state.~~

[~~(c) When the county superintendent reports the authorization to the state commissioner of education, state warrants for transportation funds for which the district is eligible shall be made payable to the district transportation fund, which is hereby created.~~]

"Section 16.204. USE OF BUSES FOR EXTRACURRICULAR ACTIVITIES, ETC. (a) The county or district school boards and the state commissioner of education shall promulgate regulations in regard to the use of school buses, for other than transporting eligible children to and from school. Under rules and regulations of the State Board of Education, the appropriate [~~district~~] allocation in the county transportation fund, when approved by the county school board, or the district transportation fund, when approved by the board of trustees of the independent school district operating its own transportation system, may be used for school bus transportation of its pupils and necessary personnel on extracurricular activities and field trips sponsored by the respective district.

"(b) Subject to the rules of the commissioner of education, a school district or county school board governing a countywide transportation system may contract with governmental agencies or nonprofit organizations for the use of school buses for the transportation of senior citizens or handicapped persons."

"Section 16.206. CALCULATION OF ALLOTMENT. (a) The total annual regular transportation cost allotment for each district or county shall be based on the rules and formulas of this section.

"(b) As used in this section:

"(1) 'Regular eligible pupil' means a pupil who resides two or more miles from his or her campus of regular attendance, measured along the shortest route that may be traveled on public roads, and who is not classified as an eligible hanicapped pupil.

"(2) 'Eligible handicapped pupil' means a pupil who is handicapped as defined in Section 16.104 of this code and who would be unable to attend classes without special transportation services.

"(3) 'Linear density' means the average number of regular eligible pupils transported daily, divided by the approved daily route miles traveled by the respective transportation system. [~~A typical bus route is defined as being from 45 to 55 miles of daily travel and composed of 60 percent surfaced roads and 40 percent dirt roads, over which 15 or more pupils who live two or more miles from school are transported.~~]

"(c) For the 1979-1980 and 1980-1981 [~~1977-1978~~] school years [~~year~~], allowable total base costs of maintenance, operation, salaries, depreciation, etc., for each bus route shall be:

Linear Density Grouping	Allocation per mile of approved route

2.40 and above	$ .94
1.65 to 2.40	.75
1.15 to 1.65	.68
.90 to 1.15	.59
.65 to .90	.52
.40 to .65	.48
up to .40	.44
[~~72 capacity bus~~	~~$5,701 per year~~
~~60-71 capacity bus~~	~~5,492 per year~~
~~49-59 capacity bus~~	~~5,283 per year~~
~~42-48 capacity bus~~	~~5,074 per year~~
~~30-41 capacity bus~~	~~4,866 per year~~
~~20-29 capacity bus~~	~~4,657 per year~~
~~15-19 capacity bus~~	~~3,821 per year~~
~~1-14 capacity bus~~	~~161 per pupil per year.~~]

Density grouping shall be based on the 1977-78 data compiled by the commissioner of education pursuant to Section 10, Chapter 1, Acts of the 65th Legislature, 1st Called Session, 1977. [~~For the 1978-79 school year and thereafter, the allowable total base costs of maintenance, operation, salaries, depreciation, etc., for each bus shall be 105.2 percent multiplied by the allowable total base cost for each bus during the 1977-1978 school year.~~]

"(d) For the 1981-82 school year and thereafter, the commissioner of education shall determine the daily cost per regular eligible pupil of operating and maintaining the regular transportation system based on the linear density of that system. In determining the cost, the commissioner shall give consideration to factors affecting the actual cost of providing these transportation services in each district. The average actual cost is to be computed by the commissioner of education and included for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act. [~~The capacity of a bus means the number of eligible children being transported who live two or more miles from school along the approved route served by the bus. A bus that makes two or more routes or serves two or more schools shall be considered as having a capacity equal to the largest number of eligible children on the bus at any one time.~~]

"(e) A district may apply for and on approval of the commissioner of education receive an additional amount of up to 10 percent of its regular transportation allotment to be used for the transportation of children living within two miles of the school they attend who would be subject to hazardous traffic conditions if they walked to school. Each board of trustees shall provide to the commissioner the definition of hazardous conditions applicable to that district and shall identify the specific hazardous areas for which the allocation is requested. A hazardous condition exists where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition. [~~For each one percent increase of dirt road above 40 percent, one-half of one percent shall be added to the allowable total cost.~~

[~~(f) For each five-mile (or major fraction thereof) increase in daily bus travel above 55 miles, one percent shall be added to the total cost of operation. For each five miles (or major fraction thereof) less than 45 miles daily travel, one percent shall be deducted from the total cost of operation.~~]

"(f) [~~(g)~~] The state commissioner of education may grant an amount not exceeding $600 per pupil per year in 1979-1980 and 1980-1981 [~~not to exceed $80~~

~~per pupil per year in 1977-1978, or $84 per pupil per year in 1978-1979 and thereafter~~] for private or commercial transportation for eligible pupils from isolated areas. The per pupil per year allowable for the 1981-1982 school year and thereafter shall be determined by the commissioner of education and included for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act. The need for this type of transportation grant shall be determined on an individual basis and the amount granted shall not exceed the actual cost. The grants shall be made only in extreme hardship cases, and no grants shall be made if the pupils live within two miles of an approved school bus route [~~or city public transportation service~~].

"(g) [~~(h)~~] The cost of transporting vocational education students from one campus to another inside a district or from a sending district to another secondary public school for a vocational program or an area vocational school or to an approved post-secondary institution under a contract for instruction approved by the Central Education Agency shall be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by their local board of trustees and approved by the Central Education Agency.

"(h) A school district that provides special transportation services for eligible handicapped pupils is entitled to a state allocation. Allocations for handicapped transportation in district- or county-operated school buses shall be paid on a previous year's cost-per-mile basis. For the 1979-1980 and 1980-1981 school years, the maximum allowable per mile cost will be 80 cents. For the 1981-1982 and 1982-1983 school years and thereafter, the maximum rate per mile allowable shall be recalculated based on data gathered from the first year of each preceding biennium. Districts may use a portion of their support allocation to pay transportation costs, if necessary. The commissioner of education may grant an amount not to exceed 18 cents per mile or a maximum of $600 per pupil per year for private transportation to reimburse parents or their agents for transporting eligible handicapped pupils. For the 1981-1982 and 1982-1983 school years and thereafter, the rate per mile and the maximum allowable per pupil will be determined by the commissioner of education for consideration by the Foundation School Program Committee and the legislature in the General Appropriations Act. The mileage allowed shall be computed along the shortest public road from the pupil's home to school and back, morning and afternoon. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.

"(i) The allocation for eligible regular students transported by the regular transportation system shall be increased by five percent for any district or county school board which has complied with the provisions of Section 21.173 of this code in accordance with rules adopted by the State Board of Education. [~~A school district that provides special transportation services for exceptional students who would be unable to attend classes without the service is entitled to funds equal to the actual cost of the transportation not exceeding $278 in 1977-1978 or $292 in 1978-1979 and thereafter for each exceptional student transported.~~]

"(j) The total allocation for a district or county transportation unit for the 1979-1980 or 1980-1981 school year shall not be less than the total allocation received for the 1978-1979 school year based on an equal number of state-approved bus routes. If the district or county has deleted routes, the minimum allocation shall be proportionately reduced.

"Section 16.207. ROUTES AND SYSTEMS: EVALUATION AND APPROVAL. (a) All bus routes and transportation systems shall be reviewed by the state commissioner of education and he shall be responsible for

establishing criteria for evaluating the several transportation systems of this state, but all the criteria shall be subject to approval by the State Board of Education.

"(b) The commissioner shall evaluate all transportation systems as rapidly as possible.

"(c) No new bus routes or extensions shall be approved prior to the survey of the transportation system of the district or county requesting them.

"(d) [~~(c)~~] In approving a transportation system for a district or county, consideration shall be given to providing transportation for only those pupils who reside in hazardous areas or live two or more miles from the school they attend except handicapped pupils. No[~~, but no~~] consideration shall be given to providing transportation for pupils transferred from one district to another when their grades are taught in their home district unless transferred as provided by law and transportation has been approved [~~by the county school board~~] as provided by law.

"(e) [~~(f)~~] There shall be no duplication of bus routes and services within sending districts by buses operated by two school districts and/or counties except on approval by the state commissioner of education."

"Section 16.210. APPEALS. Appeals to the commissioner of education and to the State Board of Education may be had from policy decisions of the [~~county~~] school boards affecting transportation."

"Section 16.212. CONTRACT WITH PUBLIC TRANSPORTATION COMPANY. (a) As an alternative to maintaining and operating a complete public school transportation system under this subchapter, a county or district school board may contract with public transportation companies for all or any part of its public school transportation if the board is able to obtain an economically advantageous contract.

"(b) A contract is economically advantageous if the cost of the service contracted for is equal to or less than the total cost to the school district for providing its own complete bus service. The total cost to the school district is the state transportation cost allotment plus the supplementary funds necessarily provided by the local school district to provide complete transportation services.

"(c) This section in no way prohibits the local school board from supplementing the state transportation cost allotment with local funds necessary to provide complete transportation services.

"(d) The state commissioner of education, subject to the approval of the State Board of Education, shall make rules for the administration of this section.

"(e) Contracts for alternative public school transportation may include provisions for transporting students to and from approved school activities.

"(f) Upon approval of the contract by the State Board of Education, the portion of the annual transportation allotment which is to be used to finance the contract for alternative transportation services shall be included in the annual transportation cost allotment for the respective county or district."

SECTION 13. Section 16.252, Texas Education Code, as amended, is revised to read as follows:

"Section 16.252. LOCAL SHARE OF PROGRAM COST. (a) For the 1981-1982 school year and each year thereafter, each school district's share of its guaranteed entitlement under the Foundation School Program shall be an amount equal to the product of an index rate of .0016 multiplied by the index value of property determined pursuant to Section 11.86 of this code. The commissioner of education shall utilize the official biennial report of the School Tax Assessment Practices Board estimates of index value in each school district for determining the local fund assignment.

"(b) For the 1979-1980 school year, each school district's share of its guaranteed entitlement under the Foundation School Program shall be an amount

equal to the product of an index rate of .0015 multiplied by the full market value of property in the district determined by Subsection (d) of this section or the product of an index rate of .00175 multiplied by the index value of property in the district determined by Subsection (e) of this section, whichever amount is smaller.

"(c) For the 1980-1981 school year, each school district's share of its guaranteed entitlement under the Foundation School Program shall be an amount equal to the product of .0016 multiplied by the index value of property in the district determined by Subsection (e) of this section.

"(d) In determining the full market value of property, the commissioner of education shall utilize the official 1979 report of the School Tax Assessment Practices Board estimates of market value with the following adjustments:

"(1) deduction of Category N (Intangible Personal Property); and

"(2) deduction of that portion of Category M (Personal Property) which represents the estimated value of household and farm personal property exempt under the provisions of Article VIII, Section 1, of the Texas Constitution;

"(3) deduction of that portion of Category H (Motor Vehicles) which represents the estimated value of motor vehicles exempted from school district taxation under the provisions of House Bill 1060, Acts of the 66th Legislature, Regular Session, 1979;

"(4) deduction of estimates of the value of homestead exemptions granted under the provisions of House Bill 1060, Acts of the 66th Legislature, Regular Session, 1979.

"(e) In determining the index value of property, the commissioner of education shall make the following adjustments to the full market value of the district:

"(1) deduction of the market value of open-space land devoted to agricultural production; and

"(2) addition of the agricultural productivity value of open-space land devoted to agricultural production.

"In making the calculations described in this subsection, the commissioner of education shall utilize wherever possible data provided by the School Tax Assessment Practices Board.

"(f) For the 1979-1980 school year and each year thereafter, no district's local fund assignment as determined pursuant to this section shall exceed 120 percent of its prior year's local fund assignment.

"(g) The commissioner of education shall adjust the values reported in the official report of the School Tax Assessment Practices Board to reflect reductions in taxable value of property resulting from natural or economic disaster after January 1 in the year in which the valuations are determined. The decision of the commissioner of education shall be final. Appeals of district values shall be held pursuant to Subsection (d) of Section 11.86 of this code.

"(h) A district need not raise its total local share of its program cost."

SECTION 14. Subchapter H, Chapter 16, Texas Education Code, as amended, is revised to read as follows:

"SUBCHAPTER H. EQUALIZATION AID FOR PROGRAM ENRICHMENT

"Section 16.301. DETERMINATION OF EQUALIZATION AID ENTITLEMENT. The amount of state equalization aid to which a district is entitled is determined by the formula:

$$SEA = 1 - \frac{DPV/ADA}{(SPV/ADA \times 1.10)} \times ADA \times MAXENT$$

where

"'SEA' is the state equalization aid guaranteed to the district;

"'DPV/ADA' is the average of the district's full market value of property and index value of property as used in determining the district's local fund assignment for the 1979-1980 school year and the average of the district's market value and index value of property as determined pursuant to Section 11.86 of this code for the 1981-1982 school year and thereafter, divided by the number of students in average daily attendance in the district;

"'SPV/ADA' is the average of the total statewide full market value of property and index value of property used in determining local fund assignment for the 1979-1980 school year and the average of the total statewide market value and index value of property as determined pursuant to Section 11.86 of this code for the 1981-1982 school year and thereafter, divided by the total number of students in average daily attendance in the state;

"'MAXENT' is the maximum entitlement per ADA, which for the 1979-1980 school year is $275 and for the 1980-1981 school year and thereafter is $290;

"'ADA' is the number of students in average daily attendance in the district.

"Section 16.302. If a school district is within an area that has been declared a major disaster area by the governor and has suffered a property value loss equivalent to 12 1/2 percent or more of its prior year valuations for tax purposes, the school district shall be eligible under rules and regulations of the commissioner of education for the maximum entitlement provided by this secion for the two subsequent school years.

"Section 16.303. PAYMENT OF STATE AID. (a) The state's equalization aid for program enrichment shall be paid from the Foundation School Fund pursuant to regulations of the State Board of Education.

"(b) If the amount of state aid required by this subchapter exceeds $202 million for the 1979-1980 school year or $215 million for the 1980-1981 school year, the amount of state equalization aid guaranteed to each district shall be reduced proportionately until the total amount of funds required equals $202 million or $215 million, as applicable."

SECTION 15. Section 11.01, Texas Education Code, as amended, is amended to read as follows:

"Section 11.01. COMPOSITION AND PURPOSE. The State Board of Education, the State Board for Vocational Education, the state commissioner of education, [~~the School Tax Assessment Practices Board,~~] and the State Department of Education shall comprise the Central Education Agency. It shall carry out such educational functions as may be assigned to it by the legislature, but all educational functions not specifically delegated to the Central Education Agency shall be performed by county boards of education or district boards of trustees."

SECTION 16. Subsection (a), Section 11.82, Texas Education Code, as added, is amended to read as follows:

"(a) Each office assessing property for school district taxes shall file an annual report listing:

"(1) the total market value and the total assessed value of taxable property in the district;

"(2) the kind and amount of any residence homestead exemption adopted pursuant to Article VIII, Section 1-b(b), of the Texas Constitution, the number of homesteads that have qualified for the exemptions, and the total market value exempted pursuant to the exemptions;

"(3) the amount of additional taxes collected in the preceding year pursuant to Article VIII, Section 1-d(f), of the Texas Constitution or to any sanction prescribed by a statute enacted under Article VIII, Section 1-d-1, of the

Texas Constitution on land that had been appraised previously on the basis of its productivity; and

"(4) other information required by the board."

SECTION 17. Subsection (a), Section 11.86, Texas Education Code, as added, is amended to read as follows:

"(a) The board shall conduct a biennial study using comparable sales and other generally accepted techniques to determine the total taxable market value and index value of all taxable property[~~, both real and personal, and both tangible and intangible,~~] in each school district. The study shall determine the taxable market value of all property and of each class of property within the district and the productivity value of all open-space, agricultural, or timber land that qualifies for appraisal pursuant to Article VIII, Section 1-d, of the Texas Constitution or pursuant to any statute enacted pursuant to Article VIII, Section 1-d-1, of the Texas Constitution [~~generally available for the production of farm crops or forest products and for the raising of livestock within each district. In addition, the board shall estimate the productivity value of open space land exclusively devoted to or developed for agricultural purposes, as defined by the board~~]. In conducting the studies, the board shall use appropriate standard valuation, statistical compilation, and analysis techniques to compute the total market value and productivity value. For the purposes of this section[~~, 'index value' means total market value less~~]:

"(1) 'taxable market value' means market value less the total dollar amount of any exemptions of part but not all of the value of taxable property required by the constitution or a statute that a district lawfully granted in the year that is the subject of the study; and

"(2) 'index value' means taxable market value less the difference between the market value and the productivity value of land that qualifies for appraisal on the basis of its productivity [~~the difference between the market value and the productivity value of open space land as determined by the board~~]. In no event shall the productivity value exceed the fair market value of the land."

SECTION 18. If any statutes enacted pursuant to Article VIII, Section 1-d-1, of the Texas Constitution do not apply to the 1979 tax year, the School Tax Assessment Practices Board, in making its study pursuant to Section 11.86, Texas Education Code, for the 1979 tax year, shall determine productivity values as provided by that section on the basis of estimates of the amount of land that will qualify under any statutes that are enacted under that constitutional provision. If those statutes apply to the 1980 tax year, the board shall adjust the productivity values when the information becomes available in 1980 to show the actual amount of land that qualifies.

SECTION 19. Subsections (d) and (e), Section 21.165, Texas Education Code, are amended to read as follows:

"(d) If the requisition is for the purchase of a motor vehicle, bus, bus body, or bus chassis, it must be approved by either the county school board when funded under law or the board of trustees of a school district [~~trustees~~] and by the commissioner of education.

"(e) If the requisition is for the purchase of tires and tubes, it must be approved by [~~either~~] the county superintendent or the chief administrative officer of a school district [~~county school trustees~~]."

SECTION 20. Section 21.167, Texas Education Code, is amended to read as follows:

"Section 21.167. SALE OF BUSES. When any school buses owned by any county or school district [~~The sale price or trade in value of any buses owned by any county or school district shall be considered in determining eligibility for transportation grants; and whenever any such buses~~] are to be sold, traded in, or

otherwise disposed of, they must be disposed of by the Board of Control or by the county school trustees or the trustees of the school district under such rules and regulations as the Board of Control may provide."

SECTION 21. Section 21.033, Texas Education Code, as amended, is amended to read as follows:

"Section 21.033. EXEMPTIONS. (a) The following classes of children are exempt from the requirements of compulsory attendance:

"(1) any child in attendance upon a private or parochial school which shall include in its course a study of good citizenship;

"(2) any child who is handicapped as defined in Section 16.104 of this code and who cannot be appropriately served by the resident district in accordance with the requirements of Section 21.032 of this code [~~has a physical or mental handicap that:~~

[~~(A) is not of a temporary and readily remediable nature, and~~

[~~(B) according to the great weight and preponderance of adequate diagnostic and evaluative information of a current nature, consisting of both specialty medical examinations and pertinent specialty assessments by qualified personnel regularly engaged in the provision of special education and related services to handicapped individuals, renders the child's attendance in regular classrooms or in special educational facilities supported with tax funds useless or inconsistent with the child's best interests~~];

"(3) any child who has a physical or mental condition of a temporary and remediable nature which renders such child's attendance infeasible [~~unfeasible~~] and who holds a certificate from a qualified physician specifying the temporary condition, indicating the treatment prescribed to remedy the temporary condition, and covering the anticipated period of the child's absence from school for the purpose of receiving and recuperating from such remedial treatment;

"(4) any child more than 17 years of age who has satisfactorily completed the work of the ninth grade and who presents to the chief administrator of the school which such child would otherwise attend satisfactory evidence showing that his services are needed in support of a parent or other person standing in a parental relation to the child; and

"(5) any child expelled in accordance with the requirements of law.

"(b) This section does not relieve a resident district as defined by Section 16.104 of this code of its fiscal and administrative responsibilities under that section or of its responsibility to provide a handicapped child with a free appropriate public education."

SECTION 22. Subsection (b), Section 12.11, Texas Education Code, is amended to read as follows:

"(b) Each of the persons so named shall be an experienced and active educator engaged in teaching in the public schools of Texas. At least a majority of the members of the committee shall be classroom teachers, and all members shall be appointed because of unusual backgrounds of training and recognized ability as teachers in the subject fields for which adoptions are to be made during the year of appointment. At least one member shall be knowledgeable in the field of special education."

SECTION 23. Section 12.34, Texas Education Code, as amended, is amended by adding Subsection (k) to read as follows:

"(k) To insure that current material is always available to the school children of Texas and to enable the development of material in an orderly and efficient manner, the State Board of Education shall develop and implement a balanced adoption cycle for proclamation of needs for textbooks and other instructional materials. At a minimum, the adoption cycle shall:

"(1) extend over a period of years determined by the State Board of Education to be the most beneficial and desirable time span to meet the textbook needs of Texas public schools;

"(2) be planned on the basis of a cost to the state of not less than $15 per scholastic population for the first year of the cycle and adjusted thereafter to account for increasing costs due to inflation of the economy;

"(3) be so arranged that the total cost of new adoptions shall be approximately equal for each year of the proposed cycle, except as adjusted for increasing costs and a growing scholastic population;

"(4) be all-inclusive of all subjects required by statute or approved by the State Board of Education to be used in the public school system of Texas during the period of time encompassed by the cycle;

"(5) be developed in such a manner that it will operate on a continuing basis so that providers of textbooks and other instructional materials shall be kept advised in advance of the subjects to be called for adoption each year; and

"(6) provide that except under emergency conditions deemed necessary by the State Board of Education, all changes or amendments in the cycle shall be made in such manner and at such time as to give notice of the change to the providers of textbooks and other instructional materials as far in advance as possible."

SECTION 24. Section 11.10, Texas Education Code, as amended, is amended by amending the heading of Section 11.10 and Subsection (s) to read as follows:

"Section 11.10. REGIONAL [~~SPECIAL~~] DAY SCHOOLS FOR THE DEAF."

"(s) Operating costs for the program in each regional day school program for the deaf shall be determined and paid on the following basis:

"(1) An estimated allocation of $2,700 for each student enrolled in the program of the regional day school program for the deaf in any current year.

"(2) Teachers, principals, supervisors, counselors, para-professional and supporting personnel shall be employed in such numbers as the Central Education Agency finds to be necessary to establish and operate the regional day school programs for the deaf, and such numbers shall not be less than student-professional ratios known to be requisite for success in education of deaf children. Salaries of all personnel employed in the regional day school programs for the deaf shall be determined in accordance with policies established by the State Board of Education.

"(3) Local districts may receive allocations for transportation of students participating in the regional day school programs on the same basis as that provided for in Section 16.206 of this code."

SECTION 25. Section 1.04, Texas Education Code, as amended, is amended to read as follows:

"Section 1.04. APPLICABILITY. (a) This code shall apply to all educational institutions supported either wholly or in part by state tax funds unless specifically excluded.

"(b) This code shall not apply to those facilities and institutions under the control and direction of the Texas Department of Mental Health and Mental Retardation or to the institutions for delinquent, dependent and neglected children under the control and direction of the Texas Youth Council except as specifically provided in Subchapter E of Chapter 30 of this code and in Section 16.104 of this code.

"(c) Any educational institution supported either wholly or in part by state tax funds shall, if undertaking to provide educational services to any individual

within the jurisdiction or geographical boundaries of the educational institution, provide equal educational opportunities [~~services~~] to all individuals within its jurisdiction or geographical boundaries pursuant to the provisions of this code and pursuant to the provisions of regulations promulgated by the Central Education Agency to give effect to the intent of the legislature in its enactment of this code. No individual otherwise eligible for educational services through an educational institution supported either wholly or in part by state tax funds may deny services to any handicapped student as defined in Section 16.104 of this code [~~individual solely on the basis of the individual's having a physical or mental handicap~~], but the educational institution shall instead be obligated to provide handicapped individuals such special educational services as might from time to time be authorized by law or, where expressly authorized, to assist in and contribute toward the provision of appropriate special educational services in cooperation with other educational institutions and other appropriate agencies, institutions, or departments.

"(d) Notwithstanding the other provisions of this section, employees of the Texas Youth Council in academic or vocational programs shall be members of the Teacher Retirement System of Texas under Chapter 3 of this code."

SECTION 26. Section 30.81, Texas Education Code, as amended, is amended to read as follows:

"Section 30.81. PURPOSE. The purpose of this subchapter is to provide the necessary means to extend the per capita allocation from the state available fund to wards of the Texas Youth Council residing in state residential facilities for delinquent or dependent and neglected children and to those handicapped persons residing in state residential facilities [~~for the mentally retarded~~] under the control and direction of the Texas Department of Mental Health and Mental Retardation, and for the purpose of providing such state available funds for educational purposes, the educational programs in state residential care facilities for delinquent, dependent or neglected children, and the handicapped [~~mentally retarded~~] shall be deemed to be educational services provided by public free schools."

SECTION 27. Chapter 11, Texas Education Code, as amended, is amended by adding Section 11.201 to read as follows:

"Section 11.201. COMMUNITY EDUCATION SERVICES. (a) Any school district of this state classified common, independent school district or rural high school district whose governing board elects to provide community education for all age groups may upon application and pursuant t regulations prescribed by the Central Education Agency be reimbursed for such costs from state funds to the extent herein authorized. Only those districts will be eligible which have in the previous or current year achieved a level of community education services prescribed by the Central Education Agency. The regulations shall contain specific provisions for eligibility and program operation.

"(b) The cost to the state shall be paid from the Foundation School Fund, and this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes.

"(c) For purposes of this section, community education services are defined in accordance with the definition contained in Subdivision (3) of Subsection (a) of Section 11.18 of this code.

"(d) Expenditures under this section shall not exceed $1,505,000 annually."

SECTION 28. Subsection (e), Section 11.18, Texas Education Code, as amended, is amended to read as follows:

"(e) Funds shall be appropriated to implement statewide adult basic education, adult bilingual education, high school equivalency, and high school

credit programs to eliminate illiteracy in Texas and to implement and support a statewide program to meet the total range of adult needs for adult education, related skill training, and pilot programs to demonstrate the effectiveness of the community education concept [~~using not more than five percent of the funds allocated for adult education~~]. An additional sum of money may be appropriated for the purpose of skill training in direct support of industrial expansion and start-up, and those locations, industries, and occupations designated by the Texas Industrial Commission, when such training is also in support of the basic purposes of this section."

SECTION 29. Subchapter F, Chapter 21, Texas Education Code, is amended by adding Section 21.173 to read as follows:

"Section 21.173. STANDEES. (a) Except as otherwise provided by this section, a school district that receives funding under Subsection (i) of Section 16.206 of this code may not require or allow a child to stand on a school bus that is in motion.

"(b) A school district may apply to the commissioner of education for permission to operate a school bus with standees. If the commissioner finds good cause, the commissioner may order that the district be permitted to operate the school bus with standees.

"(c) If a district's application under Subsection (b) of this section is not acted on within a reasonable amount of time as determined by rule of the State Board of Education permission to operate buses with standees is considered to have been granted without regard to subsequent action by the commissioner.

"(d) A school district that operates a bus with standees under Subsection (b) or (c) of this section may not operate one or more buses with standees for more than a total of 10 days during any school year, and the district may not permit more than one child per seat to stand while a bus is in motion.

"(e) The State Board of Education shall adopt rules necessary to carry out this section. The rules shall include guidelines describing situations that justify operation of a bus with standees and shall provide a mechanism that ensures that applications under Subsection (b) of this section are acted on without delay."

SECTION 30. Subsections (f) and (g), Section 12.14, Texas Education Code, as amended, are amended to read as follows:

"(f) The board may select and adopt supplementary materials to be used in conjunction with approved textbooks. [~~To qualify, the cost per pupil served of the material together with the cost per pupil served of its corresponding text must not exceed the cost per pupil served of the most expensive textbook on the textbook multiple list.~~]

"(g) The board may select and adopt a multiple list of not less than two nor more than three learning systems in those subject areas it deems appropriate. [~~To qualify for the list, a system must have a cost per pupil served no higher than the cost per pupil served of the most expensive textbook on the textbook multiple list.~~]"

SECTION 31. Subsections (e) and (f), Section 12.15, Texas Education Code, as added, are amended to read as follows:

"(e) The board may select and adopt supplementary materials to be used in conjunction with approved textbooks. [~~To qualify, the cost per pupil served of the material together with the cost per pupil served of its corresponding text must not exceed the cost per pupil served of the most expensive textbook on the textbook multiple list.~~]

"(f) The board may select and adopt a multiple list of not less than two nor more than three learning systems in those subject areas it deems appropriate. [~~To qualify for the list, a system must have a cost per pupil served no higher than the cost per pupil served of the most expensive textbook on the textbook multiple list.~~]"

SECTION 32. Subsection (d), Section 16.254, Texas Education Code, as amended, is amended to read as follows:

"(d) Notwithstanding the provisions of Subsection (b) of this section, for the 1979-1980 [~~1977-1978~~] school year and each year thereafter [~~of the biennium ending August 31, 1979~~], no school district shall receive less state aid, plus pay raises exclusive of service increments, for foundation personnel provided by Section 16.055(b) of this code, per student in average daily attendance than it received per student in average daily attendance under the Foundation School Program for the 1978-1979 [~~1976-1977~~] school year."

SECTION 33. All residential placements of handicapped persons made prior to the effective date of this Act are subject to Subsections (k), (l), and (m), Section 16.104, Texas Education Code, as amended by this Act.

SECTION 34. It is the intent of the legislature that the school districts of this state be entitled to additional funds to replace the revenues lost as a result of the passage of House Joint Resolution 1 of the 2nd Called Session of the 65th Legislature. In this Act, it is the express intent of the legislature that a portion of the increased state funding for current operating expenses and the amount of additional state aid created by reduction of local fund assignments be utilized by the school districts to substantially replace local revenues lost as a result of the implementation of the Tax Relief Amendment.

SECTION 35. (a) Sections 11.09, 11.10(a) through (m), 11.101, 11.15, 11.16, 11.161, 11.27, 11.29(d), 12.14(a)(4), 12.15(a)(4), 12.18(e)(4), (5), and (6), 15.12(c), 16.056(i), 20.03(c), (d), and (e), 21.163, 21.170, and 21.0331, Texas Education Code, as amended, are repealed.

(b) Subsection (q), Section 16.104, Texas Education Code, as added, shall be repealed effective September 1, 1980.

(c) The repeal of Section 11.27, Texas Education Code, as amended, does not affect a contract entered into before the effective date of this Act if funds are available to the Central Education Agency for payment under the contract after the effective date of this Act.

SECTION 36. 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.

The Conference Committee Report was read and filed with the Secretary of the Senate.

MOTION RELATIVE TO LOCAL AND UNCONTESTED CALENDAR PROCEDURE

Senator Jones of Harris made the following motion:

I move that the bills and resolutions listed on the Local and Uncontested Calendar be set as Special Order at 1:00 o'clock p.m., Sunday, May 27, 1979, and considered in the order listed, with the understanding that a bill or resolution removed from the Calendar will not be considered. I further move that the Three-Day Rule be suspended with respect to bills on the Local and Uncontested Calendar that are engrossed on May 27, 1979.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: McKnight.

Absent-excused: Howard, Snelson.

MEMORIAL RESOLUTIONS

S.R. 713 - By Schwartz: Memorial resolution for John L. Woolford.

S.R. 714 - By Schwartz: Memorial resolution for Edward Ralph Fredreksen.

S.R. 715 - By Schwartz: Memorial resolution for Edna T. Gilliam.

S.R. 716 - By Schwartz: Memorial resolution for Henry Edward Schultz.

S.R. 717 - By Schwartz: Memorial resolution for Captain William Spears.

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 219 - (Jones of Taylor): Extending congratulations to Mrs. Carolyn Donaldson.

S.R. 695 - By Doggett: Extending congratulations to James Ross Sanders.

S.R. 697 - By Doggett: Extending congratulations to the Senate Pages.

S.R. 698 - By Clower: Extending congratulations to Katherine Ann Velasquez.

S.R. 699 - By Clower: Extending congratulations to Sandra and Frank Gaston.

S.R. 700 - By Howard: Extending congratulations to The Paris High School Wildcats.

S.R. 701 - By Howard: Extending congratulations to the North Lamar High School girl's field and track team.

S.R. 702 - By Andujar: Extending congratulations to Major Bill Smith.

S.R. 703 - By Doggett: Extending congratulations to Diane Hoffman.

S.R. 704 - By Doggett: Extending congratulations to Virginia Smith.

S.R. 705 - By Doggett: Extending congratulations to Sue Bock.

S.R. 706 - By Doggett: Extending congratulations to Laura Leggett.

S.R. 707 - By Doggett: Extending congratulations to Margaret E. Urdy.

S.R. 708 - By Doggett: Extending congratulations to Daniel (Boone) Taylor.

S.R. 709 - By Doggett: Extending congratulations to Jan Mayeux.

S.R. 710 - By Doggett: Extending welcome to Scott Mallory.

S.R. 711 - By Doggett, Truan: Extending congratulations to Noemi H. Villarreal.

S.R. 712 - By Schwartz: Extending congratulations to Mrs. Agnes Connolly.

S.R. 719 - By Truan: Extending congratulations to Mr. and Mrs. Joe R. Hess.

S.R. 720 - By Truan: Extending congratulations to Edward Vincent Driscoll.

RECESS

On motion of Senator Moore the Senate at 6:54 o'clock p.m. took recess until 1:00 o'clock p.m. tomorrow.

SEVENTY-EIGHTH DAY
(Continued)
(Sunday, May 27, 1979)

AFTER RECESS

The Senate met at 1:00 o'clock p.m. and was called to order by Senator Jones of Harris.

Chaplain Gerald Mann offered the invocation.

SENATOR ANNOUNCED PRESENT

Senator Snelson who had previously been recorded as "Absent-Excused" was announced "Present".

STATE AFFAIRS COMMITTEE GRANTED PERMISSION TO MEET

On motion of Senator Moore and by unanimous consent, the Committee on State Affairs was granted permission to meet while the Senate was in session.

REPORT OF STANDING COMMITTEE

Senator Jones of Harris submitted the following report for the Committee on Administration:

H.B. 454 (Ordered not printed)
S.R. 606 (Ordered not printed)

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Jones of Harris in Chair) announced that the time had arrived for the consideration of the Local and Uncontested Bills Calendar in accordance with the provisions of **S.R. 16.** (Bills having been set as Special Order and Constitutional Three-Day Rule suspended by a vote of 28-0 on May 26, 1979.)

The following bills were laid before the Senate, read second time, amended (where applicable), passed to engrossment, read third time and passed. (Sponsor and vote on final passage indicated after caption of each bill. When amended, vote on final passage follows the amendment.)

C.S.H.B. 263 (Andujar) Relating to fees for certified copies of death certificates. (31-0)

C.S.H.B. 480 (Schwartz) Relating to the apportionment of funds by the State Library System. (31-0)

H.B. 512 (Brooks) Relating to sales tax exemptions on certain telephone equipment used by the deaf. (31-0)

C.S.H.B. 771 (Mauzy) Relating to transfer of ertain powers and duties of abolished school boards. (31-0)

H.B. 735 (Meier) Relating to application of family code to cases involving child abuse.

Senator Meier offered the following committee amendment to the bill:

Amend H.B. No. 735 by striking or deleting all of SECTION 1. and renumbering the following SECTIONS in proper sequence.

The amendment was read and was adopted.

Senator Farabee offered the following amendment to the bill:

Amend **H.B. 735** by deleting Section 2 and renumbering the remaining sections accordingly.

The amendment was read and was adopted.

On motion of Senator Meier and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

C.S.H.B. 864 (Andujar) Relating to a state historical collection at Texas Woman's University. (31-0)

H.B. 986 (Vale) Relating to using private employment agencies to recruit public school personnel. (31-0)

H.B. 1027 (Brooks) Relating to the transfer of certain public school students. (31-0)

H.B. 1106 (Howard) Relating to maintenance of records by the Department of Highways and Public Transportation. (31-0)

H.B. 1224 (Ogg) Relating to the period of time within which a reserve peace officer may obtain certification. (31-0)

H.B. 1277 (Schwartz) Relating to dredging to provide access to boat ramps. (31-0)

H.B. 1375 (Braecklein) Relating to the offense of harboring a runaway child. (31-0)

H.B. 1389 (Parker) Relating to student service fee.

Senator Parker offered the following amendment to the bill:

Add a new subsection (h) to Section 2, Sec. 54.503 to read as follows:
(h) This section does not apply to The University of Texas at Austin.

The amendment was read and adopted.

Senator Parker offered the following amendment to the bill:

Add a new subsection (d) to Section 3, Sec. 54.505 to read as follows:
(d) This section shall not apply to The University of Texas at Austin.

The amendment was read and was adopted.

Senator Moore offered the following amendment to the bill:

Amend **C.S.H.B. 1389**, Section 3, by adding a new subsection (d) to read as follows:
(d) This section does not apply to the colleges of The Texas A&M University System.

The amendment was read and was adopted.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

H.B. 1423 (Mauzy) Relating to the administration of medicine to students by public school employees. (31-0)

H.B. 1426 (Doggett) Relating to a student center fee for Southwest Texas State University. (31-0)

H.B. 1451 (Meier) Relating to termination of guardianship of deceased ward and payment of funeral expenses. (31-0)

H.B. 1455 (McKnight) Relating to refunding bonds. (31-0)

H.B. 1460 (Howard) Relating to application of the Sunset Act to the Advisory Commission of Technical-Vocational Education.

Senator Howard offered the following committee amendment to the bill:

Amend House Bill 1460 by striking "1981" from line 10, page 1, and substituting "1983" in lieu thereof.

The amendment was read and was adopted.

On motion of Senator Howard and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

H.B. 1493 (Meier) Relating to the effect of remarriage of divorced parties on the orders and jurisdiction of the court. (31-0)

H.B. 1540 (Patman) Prohibiting camping and conduct of business in certain highway rest areas, etc. (31-0)

H.B. 1552 (Traeger) Relating to the validation of the incorporation, boundaries and governmental proceedings of general law cities.

Senator Traeger offered the following committee amendment to the bill:

Amend **H.B. 1552** by striking SECTION 3. and renumbering the subsequent sections accordingly.

The amendment was read and was adopted.

On motion of Senator Traeger and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (28-3) Mauzy, Howard, Jones of Harris "Nay"

H.B. 1557 (Andujar) Relating to the use of red checks. (31-0)

H.B. 1577 (Vale) Relating to filing of an assumed name certificate. (31-0)

H.B. 1625 (Williams) Prohibiting the creation of deed restrictions in subdivisions of cities which require the use of wood shingle roofs on each home. (31-0)

H.B. 1685 (Braecklein) Relating to use of a bikeway next to a roadway. (31-0)

H.B. 1719 (Traeger) Relating to certain powers and duties of the board and executive director in the Department of Water Resources. (31-0)

H.B. 1738 (Parker) Relating to use of monofilament nets in salt water.

Senator Parker offered the following committee amendment to the bill:

Amend H.B. No. 1738 by striking out subdivision (a) of subsection 66.214 of SECTION 1 and substituting in lieu thereof the following:

(a) In those coastal waters to which the Uniform Wildlife Regulatory Act (Chapter 61 of this Code) is not applicable, no person may use a monofilament net for the purpose of catching finfish.

The amendment was read and was adopted.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

H.B. 1898 (Andujar) Relating to regulation of brake fluids. (29-2) Short, Howard "Nay"

H.B. 1906 (Moore) Relating to the use of authorized but unissued school district bonds. (31-0)

H.B. 1954 (Santiesteban) Relating to municipal courts of record in the City of El Paso. (31-0)

H.B. 1956 (Ogg) Relating to regulation of fire extinguisher installation and servicing. (31-0)

H.B. 1966 (Schwartz) Relating to removal of substandard buildings by a home-rule city. (31-0)

H.B. 2026 (Andujar) Relating to restrictions applicable to occupational drivers license. (31-0)

C.S.H.B. 2030 (Harris) Relating to formation of professional corporations by insurance agents. (31-0)

H.B. 2107 (Farabee) Relating to community service as a condition of probation for certain misdemeanors.

Senator Farabee offered the following committee amendment to the bill:

Amend **H.B. 2107** by inserting between the "a" and "misdemeanor" on p. 1, line 10 the words "first offense".

The committee amendment was read and was adopted.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

H.B. 2135 (Brooks) Relating to private outdoor training programs for deaf students.

Senator Brooks offered the following committee amendment to the bill:

Amend **H.B. 2135**, Section 1, by striking Sec. 11.104(a) and substituting in lieu thereof the following:

Sec. 11.104. PRIVATE OUTDOOR TRAINING PROGRAMS FOR DEAF STUDENTS. (a) In accordance with the rules of the State Board of Education, the Central Education Agency may contract with private entities to provide for the attendance of deaf students at outdoor recreational programs operated for the purpose of providing skill training and education for deaf children, or for deaf children and their parents, or for deaf children and their teachers and/or parents.

The committee amendment was read and was adopted.

Senator Brooks offered the following amendment to the bill:

Amend House Bill 2135 by striking Sec. 11.104(c) of Section 1 and substituting in lieu thereof the following:

"(c) The sum of $30,000 is appropriated to the Central Education Agency from the General Revenue Fund for each year of the biennium beginning September 1, 1979, for the purpose of carrying out the provisions of this Act."

The amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

H.B. 2142, (Doggett) Relating to student service fees at the University of Texas at Austin.

Senator Doggett offered the following committee amendment to the bill:

Amend **H.B. 2142**, Section 1, Sec. 67.27, by striking the words "from one year to the next above 10 percent" and also striking the words "by the student government or".

The committee amendment was read and was adopted.

On motion of Senator Doggett and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

H.B. 2146 (Doggett) Relating to the student union fee at the University of Texas at Austin.

Senator Doggett offered the following committee amendment to the bill:

Amend **H.B. 2146** by striking everything below the enacting clause and substituting the following:

Section 1. Subsection (c), Section 67.21, Texas Education Code, is amended to read as follows:

(c) The board may levy and collect from each student a compulsory fee for operating, maintaining, improving, equipping and/or constructing additions to the existing Texas Union building near Guadalupe Street, of not to exceed $10 for each regular semester and $5 for each term of each summer session, with such fees to be deposited to an account known as the Texas Union Fee Account[~~.~~] ; this fee may be raised to an amount not to exceed $14 for each regular semester and $7 for each term of each summer session if that increase in the fee is approved by a majority vote of those students participating in a general election called for that purpose. The activities of said Texas Union building financed in whole or in part by this fee shall be limited to those activities in which the entire student body is eligible to participate, and in no event shall any of the activities so financed be held outside of the territorial limits of the campus of The University of Texas at Austin.

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.

The committee amendment was read and was adopted.

On motion of Senator Doggett and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

H.B. 2160 (Parker) Creating the Sabine Pass Port Authority. (31-0)

C.S.H.B. 2229 (Traeger) Relating to the commercial production of wine. (31-0)

H.B. 2234 (Moore) Relating to hunting turkey in Morris County. (31-0)

H.B. 2080 (Brooks) Relating to the regulation of the practice of pharmacy. (31-0)

H.C.R. 90 (Mauzy) Directing the State Board of Education and appropriate legislative committees to undertake a state-wide study of curriculum for public schools. (vv)

H.C.R. 102 (Brooks) Urging counties to consider creating medical examiners' districts. (vv)

H.C.R. 103 (Brooks) Requesting Department of Human Resources to evaluate its services for sexually abused children. (vv)

H.C.R. 104 (Andujar) Memorializing President and U.S. Postal Service regarding the mailing of obscene materials. (vv)

H.C.R. 105 (Andujar) Memorializing the President and U.S. Attorney General regarding enforcement of anti-obscenity laws and the Mann Act. (vv)

H.C.R. 106 (Brooks) Requesting the Texas Department of Public Safety to compile and report data pertaining to sex crimes against children. (vv)

H.C.R. 107 (Brooks) Requesting Criminal Justice Center at Sam Houston State University to conduct a study of current court procedures on juvenile sexual abuse cases. (vv)

H.C.R. 200 (Snelson) Granting Delores Flores permission to sue the State of Texas. (vv)

S.R. 599 (Ogg) Creating an interim committee to study ways to reduce the volume of State paperwork and the utilization of information gathered. (vv)

S.R. 631 (Mauzy) Directing the Senate Education Committee to study needs for continuing adult education in Texas. (vv)

S.R. 668 (Parker) Creating a special committee to financial institutions regarding lending practices for home purchase and rehabilitation. (vv)

H.B. 1007 (Ogg) Relating to a deadline for filing an application for a place on the ballot. (31-0)

C.S.H.B. 1134 (Schwartz) Relating to the liability of a political subdivision for certain acts of officers and employees.

Senator Schwartz offered the following committee amendment to the bill:

Amend Committee Substitute House Bill 1134 by striking everything below the enacting clause and inserting in lieu thereof the following:

Section 1. Definition. In this Act "Employee" includes an elected official, and any other officer or employee, a former officer or employee or their estates, of a county, city, town, special purpose district, or any other political subdivision of this state.

Section 2. PERSONS AND CONDUCT COVERED: LIMITS ON LIABILITY. (a) A county, city, town, special purpose district, or any other political subdivision of the state may pay actual damages, court costs, and attorney's fees adjudged against its emmployee, if damages are based on an act or omission by the employee in the course and scope of his or her employment for such political subdivision and if the damages arise out of a cause of action for negligence, except a wilful or wrongful act or omission or an act or omission constituting gross negligence or for official misconduct.

(b) This Act shall not be construed to waive, repeal, or modify any defense, immunity, or jurisdictional bar available to the political subdivision, its employees, nor shall this Act be construed to waive, repeal, or modify any provision of the Texas Tort Claims Act, as amended (Article 6252-19, Vernon's Texas Civil Statutes). The county or political subdivision is not liable under this Act to the extent that damages are recoverable under a contract of insurance or under a plan of self-insurance authorized by statute. Liability of the political subdivision under this Act is limited to $100,000 to a single person and $300,000 for a single occurrence, in the case of personal injury or death, and to $10,000 for a single occurrence of injury of or damage to property.

Section 3. DEFENSE OF ACTIONS. (a) The political subdivision may provide counsel to represent a defendant in a cause of action covered by this Act. The counsel provided may be the county attorney when the defendant is a county employee or if he is an employee of any other political subdivision an attorney regularly employed by such political subdivision unless there is a potential conflict of interest between the defendant and the county or other political subdivision, in which case the county or other political subdivision may hire private counsel to defend the suit.

(b) Counsel for the county or political subdivision may settle or compromise the portion of a lawsuit that may result in liability of the county or political subdivision under this Act.

(c) In a case defended under this Act, neither the defendant nor the political subdivision may be required to advance security for cost or give bond on appeal or on review by writ of error.

Section 3. Section 1, Chapter 653, Acts of the 65th Legislature, Regular Session, 1977 (Article 2372h-7, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. A county may insure <u>such of</u> its officers and employees, <u>including county and precinct peace officers as may be designated by the county commissioners court,</u> against liability to a third person arising from the performance of official duties or duties of employment by purchasing policies of liability insurance from an insurer authorized to do business in this state."

Section 4. Section 2 of this Act shall not be construed to modify or change any policy of insurance providing coverage to an officer or employee of a political subdivision; that The State Board of Insurance shall promulgate rules and set rates to implement Section 3 of this Act.

Section 5. EMERGENCY. 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.

The committee amendment was read and was adopted.

On motion of Senator Schwartz and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

H.B. 2236 (Traeger) Relating to the appointment of an administrative assistant or assistants by the Judge of the County Court at Law No. 4 of Bexar County. (31-0)

H.B. 1096 (Mengden) Relating to controlled substances. (31-0)

C.S.H.B. 2100 (Williams) Relating to expenditures by certain cities of proceeds of airport revenue bonds. (31-0)

S.C.R. 94 (Snelson) Authorizing continuation of interagency contracting between Legislative Council and State Commission for the Blind. (vv)

S.C.R. 96 (Snelson) Creating an interim study committee on early childhood intervention services. (vv)

S.R. 667 (Brooks) Directing the Senate Committee on Human Resources to study the provision of health care services. (vv)

C.S.S.R. 663 (Clower) Creating an interim study committee on fire prevention control and safety. (vv)

H.B. 850 (Jones of Harris) Relating to the executive director of the Texas Closeup Program. (31-0)

H.B. 1708 (Ogg) Relating to the acquisition of a public interest in a private road. (31-0)

H.B. 2261 (Howard) Relating to deer hunting in Cass County. (31-0)

H.B. 2269 (Parker) Relating to exemptions under the nepotism law.

Senator Parker offered the following amendment to the bill:

Amend **H.B. 2269**, Section 1, Page 2, by inserting a new Section 5 to read as follows:

"Sec. 5. No state agency shall promulgate a rule or regulation which prohibits the employment of two or more persons who are related within the second degree by affinity or within the third degree by consanguinity and who work in different divisions, departments, or similar organizational units within the agency."

The amendment was read and was adopted.

On motion of Senator Parker and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

H.B. 2275 (Snelson) Relating to tax assessment in the West Coke County Hospital District. (31-0)

H.C.R. 82 (Jones of Harris) Authorizing construction of permanent historical display on third floor of the Capitol. (vv)

H.C.R. 180 (Williams) Authorizing the construction of a memorial to disabled veterans on the Capitol grounds. (vv)

H.C.R. 209 (Meier) Designating the first week in April of each year to be Texas Business and Industry Week. (vv)

H.C.R. 39 (Schwartz) Memorializing Congress to urge the German Federal Republic to abolish or extend the statute of limitations on Nazi war crimes. (vv)

H.B. 628 (Vale) Relating to psychological testing of peace officers.

Senator Vale offered the following committee amendment to the bill:

Amend House Bill No. 268 by:
1. Striking "who practices clinical psychology" in the first sentence of Subsection (a) of Section 7A when it follows the words "a licensed psychologist" and preceeds the words "or a licensed physician".
2. Deleting Subsection (d) of Section 7A, and Sec. 7B. entirely.
Deleting the words "or 7B" following the words "Section 7A" and before the words "of this Act" in Subsection (e) of SECTION 2.

The committee amendment was read and was adopted.

On motion of Senator Vale and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0)

H.B. 412 (Traeger) Relating to the statute of limitations in certain actions. (31-0)

S.C.R. 102 (Parker) Creating an interim committee to study feasibility of river authority for entire Neches River. (vv)

H.B. 165 (Schwartz) Relating to the Galveston County Water Authority. (31-0)

H.B. 179 (Brooks) Relating to interference with an emergency communication. (31-0)

H.B. 2121 (Brooks) Relating to establishment of a program to identify infants in high risk of hearing loss. (31-0)

H.C.R. 183 (Jones of Taylor) Directing state agencies to invest funds in Texas stocks, bonds and evidences of indebtedness. (vv)

H.B. 1691 (Andujar) Relating to priority of claims against estates of decedents. (vv)

H.B. 1775 (Howard) Relating to the period of time for the State Board of Insurance to approve a policy before issuance. (30-1) Short "Nay"

S.R. 692 (Brooks) Directing the Senate committee on Human Resources to study several areas in furtherance of recommendations made by the Joint Committee on Long-Term Care Alternatives.

Senator Brooks offered the following committee amendment to the resolution:

Amend S.R. No. 692 by inserting between the second and third resolving clauses the following:
"RESOLVED, That specific areas of study may be assigned by the chair to the Subcommittee on Public Health, the Subcommittee on Consumer Affairs, or to special subcommittees appointed by the chair; and, be it further".

The committee amendment was read and was adopted. (vv)

S.R. 693 (Brooks) Directing the Senate Committee on Human Resources to conduct a study of the handicapped in Texas.

Senator Brooks offered the following committee amendment to the resolution:

Amend S.R. No. 693 by inserting between the first and second resolving clauses the following:

"RESOLVED, That specific areas of study may be assigned by the chair to the Subcommittee on Public Health, the Subcommittee on Consumer Affairs, or to special subcommittees appointed by the chair; and, be it further"

The committee amendment was read and was adopted. (vv)

H.C.R. 98 (Santiesteban) Requesting Department of Public Safety to form a task force to study organized crime's link with pornography and child abuse. (vv)

H.B. 659 (Andujar) Relating to the coverage of the law regulating lobbying.

Senator Andujar offered the following amendment:

Amend HB 659 by striking SECTION 2 in its entirety and renumbering the subsequent SECTIONS accordingly.

The committee amendment was read and was adopted. (31-0)

BILLS REMOVED FROM LOCAL AND UNCONTESTED BILLS CALENDAR

Bill No.	Senators Objecting
H.B. 384	Senators Mengden, Parker
H.B. 1205	Senators Vale, Jones of Harris
H.B. 1474	Senators Clower, Jones of Harris
H.B. 1784	Senators Brooks, Jones of Harris
H.B. 2255	Senators Longoria, Jones of Harris
H.B. 1885	Senators Clower, Patman
H.B. 1052	Senators Mengden, Moore
S.R. 536	Senators Andujar, Jones of Harris

CONCLUSION OF SESSION FOR LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Jones of Harris in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

CONFERENCE COMMITTEE REPORT SENATE BILL 125

Senator Meier submitted the following Conference Committee Report:

Austin, Texas
May 26, 1979

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 125** 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.

MEIER
SCHWARTZ
BLAKE
ANDUJAR
HOWARD
On the part of the Senate

LALOR
EVANS
EMMETT
LANEY
HENDERSON
On the part of the House

A BILL TO BE ENTITLED

AN ACT

providing for hearings, travel expenses, reports, and consultants relating to the operation of the Texas Turnpike Authority; amending Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 6674v, Vernon's Texas Civil Statutes), by "amending Sections 3, 3a and 21 and by adding Sections 16a, 21a, 21b, and 21c."

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

"SECTION 1. Section 3, Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 6674v, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. There is hereby created an authority to be known as the "Texas Turnpike Authority," hereinafter sometimes referred to as the "Authority." By and in its name the Authority may sue and be sued and plead and be impleaded. The Authority is hereby constituted an agency of the State of Texas, and the exercise by the Authority of the powers conferred by this Act in the construction, operation, and maintenance of turnpike projects shall be deemed and held to be an essential governmental function of the State.

The Board of Directors of the Authority (hereinafter in this Act sometimes called the "Board") shall be composed of directors, who shall occupy, respectively, places on the Board to be designated as Places 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12. The Directors who will occupy Places 2, 3, 5, 6, 8, 9, 10, 11, and 12 shall be appointed by the Governor, by and with the advice and consent

of the Senate. Appointed Directors shall serve staggered terms of six (6) years with the terms of one-third of the members expiring on February 15 of each odd-numbered year. Each Director appointed to fill Places 2, 3, 5, 6, 8, 9, 10, 11, and 12 shall have been a resident of the State and of the County from which he shall have been appointed for a period of at least one (1) year prior to his appointment.

Appointments to the Authority shall be made without regard to the race, creed, sex, religion or national origin of the appointees.

The members of the Texas State Highway Commission at the time this Act becomes effective are hereby made Directors of said Authority and if for any reason said Texas State Highway Commission at such time because of vacancies is composed of less than three (3) members, then the person or persons appointed to fill such vacancies are hereby made Directors of said Authority. The Highway Commissioners and their successors in office shall respectively and successively occupy Places 1, 4, and 7 on such Board. Each member of the Texas State Highway Commission shall serve ex officio as a member of the Board of Directors of such Authority. All Directors shall serve until their successors have been duly appointed and qualified, and vacancies in unexpired terms shall be promptly filled by the Governor.

All members of the Board of Directors shall be eligible for reappointment. All Directors shall have equal status and all Directors shall have a vote. Each member of the Board before entering upon his duties shall take an oath as provided by Section 1 of Article XVI of the Constitution of the State of Texas.

The Board shall elect one of the Directors as chairman and another as vice chairman, and shall elect a secretary and treasurer who need not be a member of the Board. Seven members of the Board shall constitute a quorum and the vote of a majority shall be necessary for any action taken by the Board. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

Before the issuance of any turnpike revenue bonds under the provisions of this Act, each Director shall execute a surety bond in the penal sum of Twenty-five Thousand Dollars ($25,000) and the secretary and treasurer shall execute a surety bond in the penal sum of Fifty Thousand Dollars ($50,000), each surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the State of Texas as surety and to be approved by the Governor and filed in the office of the Secretary of State. The expense of such bonds shall be paid by the Authority.

Each appointed Director may be removed by the Governor for misfeasance, malfeasance or willful neglect of duty, but only after reasonable notice and public hearing unless the notice and public hearing are in writing expressly waived. Failure of an appointed member to attend at lease one-half of the regularly scheduled meetings held each year automatically removes such member and creates a vacancy on the Board.

The members of the Authority shall not be entitled to any additional compensation for their services, but each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties. All expenses incurred in carrying out the provisions of this Act shall be payable solely from funds provided under the authority of this Act and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the authority of this Act.

The Legislature imposes on any Director, who may be a member of the State Highway Commission the extra duties required hereunder."

SECTION 2. Section 3a, Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 6674v, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3a. The Texas Turnpike Authority is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the authority is abolished, and this Act expires effective September 1, 1991 [~~1979~~]."

SECTION 3. Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 6674v, Vernon's Texas Civil Statutes), is amended by adding Sections 16a, 21a, 21b, and 21c to read as follows:

"Section 16a. PUBLIC HEARINGS. (a) Before the authority finally approves an engineering design for a project, the authority or a designated representative of the authority shall hold at least one public hearing in the general locality in which the project is to be located. Persons interested in the project shall be given an opportunity at the public hearing to testify about the project and to inspect the plans and designs prepared for the project.

"(b) Not less than 15 days nor more than 21 days before the public hearing, the authority shall furnish a written notice of the public hearing to the governing body of each county, city, or town in which any part of the project is to be located and shall publish the notice in the general locality in which the project is to be located in a manner likely to inform the general public of the public hearing.

"(c) At least seven days before the public hearing, the authority shall file with the governing bodies the plans and designs prepared for the project."

"Section 21a. TRAVEL EXPENSES. (a) Employees of the authority are entitled to a per diem and transportation allowance for travel on official business. The rates of reimbursement are as provided in the travel provisions of the General Appropriations Act.

"(b) The secretary, treasurer, the project manager of a project, and the executive head of the authority are entitled to reimbursement for actual and necessary expenses incurred for travel on official business, except that reimbursement for transportation expenses is at the rates provided in the travel provisions of the General Approprations Act.

"Section 21b. REPORTS. (a) The authority shall file with the governor, the Legislative Reference Library, and the Legislative Budget Board certified copies of the minutes of the authority's meetings. The authority similarly shall file copies of any corrections or changes of the minutes. The authority shall file the copies as soon as possible after the minutes, changes, or corrections are approved by the authority.

"(b) On or before March 1 of each year, the authority shall file with the governor's budget and planning office, or its successor, and the Legislative Budget Board an itemized budget covering the current calendar year.

"(c) On or before March 31 of each year, the authority shall file with the governor, the legislature, and the Legislative Budget Board a report about the authority's activities during the preceding calendar year. The report shall include information about each project, including a complete operating and financial statement covering each project, and shall include an itemized statement about the professional or consulting fees paid by the authority, including the name of each individual or business entity who received the fees and a desription of the purposes for which the fees were paid.

"Section 21c. CONSULTANTS. The authority is subject to Chapter 454, Acts of the 65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes), relating to the use of consultants."

SECTION 4. Section 21, Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 6674v, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 21. Each Turnpike Project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the Authority. Each such project shall also be policed and operated by such force of police, toll-takers and other operating employees as the Authority may in its discretion employ. Within its discretion the Authority may make arrangements with the Department of Public Safety for the services of police officers of that Agency.

"All private property damages or destroyed in carrying out the powers granted by this Act shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this Act.

"All counties, cities, villages and other political subdivisions and all public agencies and commissions of the State of Texas, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request, upon such terms and conditions as the proper authorities of such counties, cities, villages, other political subdivisions or public agencies and commissions of the State may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or appropriate to the effectuation of the authorized purposes of the Authority, including highways and other real property already devoted to public use.

"An action by the Authority may be evidenced in any legal manner, including a resolution adopted by its Board of Directors.

If the Authority employs a general counsel the counsel shall be prohibited from lobbying for the Authority, and no member of the Authority shall engage in activities requiring registration as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes).

"Any member, agent or employee of the Authority who contracts with the Authority or is interested, either directly or indirectly, in any contract with the Authority or in the sale of any property, either real or personal, to the Authority, shall be punished by a fine of not more than One Thousand Dollars ($1,000).

"Any person who uses any turnpike project and fails or refuses to pay the toll provided therefor, shall be punished by a fine of not more than One Hundred Dollars ($100) and in addition thereto the Authority shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof, until the amount of such toll and all charges in connection therewith shall have been paid.

"[~~On or before the thirty first day of March in each year the Authority shall make an annual report of its activities for the preceding calendar year to the Governor and to the Legislature. In making such report, each project shall be listed and reported separately. Each such report shall set forth a complete operating and financial statement covering its operations for each project during the year.~~] The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operation of the Turnpike Project."

SECTION 5. This Act takes effect on September 1, 1979.

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.

The Conference Committee Report was read and filed with the Secretary of the Senate.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HJR 97, A joint resolution proposing a constitutional amendment to grant the state the right of appeal in criminal cases from certain rulings of the trial court.

HB 856, A bill to be entitled An Act relating to the penalty for the denial of emergency treatment to a person by an officer or employee of certain hospitals for inability to pay; providing penalties.

HB 1249, A bill to be entitled An Act relating to abolition of the State Board of Examiners in the Basic Sciences.

HB 1372, A bill to be entitled An Act relating to bay shrimping.

HB 1843, A bill to be entitled An Act relating to appointment of a county board of equalization.

S.B. 1218 Relating to admission to the public free schools of certain children placed in foster care.

S.B. 1306 Relating to the creation, establishment, administration, maintenance, operation, and financing of Wichita County Hospital District by authority of Article IX, Section 9 of the Texas Constitution, as amended; prescribing the rights, powers, duties, and obligations of the district and its governing personnel; providing for choice of election date; providing procedures for the issuance of bonds, their terms and conditions, and their security; providing for refunding bonds; providing the characteristics of the bonds and for their eligibility for investments and as security for deposit of public funds; making district bonds and profits exempt from taxes; providing for termination of this act within specified time if the district has not been created; and declaring an emergency.

S.B. 1255 Relating to access to the criminal record or history of a client or an applicant for services by the Texas Rehabilitation Commission. (With amendments)

S.B. 1076 AN ACT declaring the policy of this state to safeguard the health, general welfare, and physical property of the people of the state from pollution resulting from solid waste by encouraging the processing of the solid waste for reuse; etc. (With amendment)

S.B. 27 Relating to the name, duties, and responsibilities of the Prosecutor Council; providing for disqualification, suspension, and removal of prosecutors;

providing for the appointment and compensation of prosecuting attorneys pro tempore; providing a severability clause; and declaring an emergency. (With amendments)

S.B. 322 Relating to increasing the penalty for violating the provisions of the Texas Controlled Substances Act involving phencyclidine. (With amendment)

S.B. 1211 Relating to the undertaking and financing of certain municipal public works or improvements in areas in need of rehabilitation. (With amendment)

S.B. 1150 Relating to Food Stamps.

S.B. 768 Relating to suits affecting the parent-child relationship and to taking possession of a child under certain circumstances. (With amendment)

S.B. 139 Relating to payments for foster care for certain children ineligible for the aid to families with dependent children program. (With amendment)

S.B. 143 Relating to jurisdiction of a suit affecting the parent-child relationship.

S.B. 1077 AN ACT relating to the Solid Waste Disposal Act, Chapter 405, Acts of the 61st Legislature, 1969, as amended (Article 4477-7, Vernon's Texas Civil Statutes); amending Section 1, declaring state policy and the purpose of the Act, to include encouragement of processing of solid waste for reuse; amending Section 2, to add a definition for "solid waste resource recovery facility"; adding a new Section 4a, authorizing local governments to enter into long-term contracts

S.C.R. 103 Creating the Texas Workers' Compensation Advisory Committee.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 124 adopted by a vote of 120 Ayes, 4 Noes, 2 Present-Not Voting.

all necessary rules suspended, and the Conference Committee Report on Senate Bill No. 125 adopted by a non record vote.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

BILLS SIGNED

The Presiding Officer (Senator Jones of Harris in Chair) announced the signing by the President in the presence of the Senate, after the caption had been read, the following enrolled bills:

S.B. 104	**S.B. 929**
S.B. 277	**S.B. 951**
S.B. 334	**S.B. 994**
S.B. 376	**S.B. 1156**
S.B. 378	**S.B. 1167**

S.B. 386	**S.B. 1176**
S.B. 446	**S.B. 1234**
S.B. 540	**S.B. 1245**
S.B. 541	**S.B. 1249**
S.B. 877	**S.B. 1264**
S.B. 916	

S.B. 1301 (Signed subject to Art. 49(a) Section III, Constitution of State of Texas)

REPORTS OF STANDING COMMITTEES

Senator Moore submitted the following report for the Committee on State Affairs:

H.J.R. 86
H.B. 408

Senator Schwartz submitted the following report for the Committee on Natural Resources:

H.B. 1971 (Amended)
C.S.H.B. 1619 (Read first time)

ADJOURNMENT

On motion of Senator Moore the Senate at 2:43 o'clock p.m. adjourned until 9:30 o'clock a.m. tomorrow.

APPENDIX

Signed by Governor

(May 24, 1979)

S.C.R. 57	
H.C.R. 84	
S.B. 9	Effective August 27, 1979
S.B. 43	Effective September 1, 1979 Sections 4 and 10 Effective September 1, 1980
S.B. 186	Effective immediately
S.B. 252	Effective August 27, 1979
S.B. 261	Effective August 27, 1979
S.B. 295	Effective immediately
S.B. 316	Effective August 27, 1979
S.B. 404	Effective immediately
S.B. 436	Effective August 27, 1979
S.B. 543	Effective immediately
S.B. 552	Effective August 27, 1979
S.B. 575	Effective August 27, 1979
S.B. 577	Effective September 1, 1979
S.B. 581	Effective immediately
S.B. 619	Effective August 27, 1979
S.B. 623	Effective August 27, 1979