EIGHTIETH DAY
(Monday, May 27, 1985)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment and was called to order by Senator Traeger.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

A quorum was announced present.

Senator Gonzalo Barrientos offered the invocation as follows:

Dear Lord, on this Memorial Day let us remember those who have given their lives for our country and let us remember each other.

And from a very special place on this planet, for our colleagues to take home with them, may the road rise up to meet you, may the wind be always at your back, may the sun shine warm upon your face, the rains fall soft upon your fields and until we meet again, may God hold you in the palm of his hand. Amen.

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

SENATE BILL AND RESOLUTION ON FIRST READING

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

S.B. 1497 by Montford — Natural Resources
Relating to the creation, administration, powers, duties, operation, and financing of the Buffalo Springs Lake Municipal Utility District.

S.R. 542 by Brooks — Administration
Directing Senate Health and Human Resources Committee to study other sources of funding for mental health services.

CO-SPONSOR OF HOUSE BILL 13

On motion of Senator Lyon and by unanimous consent, Senator Glasgow will be shown as Co-sponsor of **H.B. 13**

CO-SPONSOR OF HOUSE BILL 1172

On motion of Senator Washington and by unanimous consent, Senator Whitmire will be shown as Co-sponsor of **H.B. 1172.**

MESSAGE FROM THE GOVERNOR

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

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

May 25, 1985

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 341 because of the following objections:

This bill removes the requirement that all health and human service agencies establish administrative boundaries that coincide with the health service areas established by the Governor. House Bill 341 would give health-related agencies complete flexibility in establishing administrative regions. Although there is a need to be able to respond to changing administrative concerns, one consequence of the bill would be to eliminate the Governor's oversight responsibility for assuring that agencies providing related health services would coordinate programs and data collection.

This measure would have a negative effect on the advances that we have recently made in building a standardized health planning system and on data collection that is essential in assessing needs, particularly in programs that are based on an interagency effort.

Therefore, I veto **H.B. 341**.

Respectfully,

/s/Mark White
Governor of Texas

SENATE RESOLUTION 539

Senator Brooks offered the following resolution:

WHEREAS, Fellow Members of the Texas Senate salute a distinguished colleague, a champion of all Texas citizens, and an articulate spokesman on behalf of veterans' rights and benefits, Senator Lindon Williams, who will retire after 11 years of conscientious and diligent service as Texas Senator of the 6th District of Harris County at the close of the 69th Legislature; and

WHEREAS, A consummate Texas gentleman, Senator Williams was born December 27, 1932, in San Augustine County, deep in the piney woods of East Texas; his humble upbringing afforded him the ability to empathize with the problems of the common man—a quality that has figured prominently in his career as an active and effective representative of hard-working people; and

WHEREAS, Exhibiting outstanding leadership abilities at a young age, Senator Williams was president of his senior class and captain of the basketball team at Broaddus High School and continued his education by attending night classes at South Texas Junior College and the University of Houston; a self-made man, he eventually established a successful supply and construction business in Harris County, Texas; and

WHEREAS, Elected to the Texas Senate in 1975 after a perfect 8-year attendance record in the House, Senator Williams has brought great distinction to himself during his illustrious 11-year term in the Senate; that he has had only one opponent as an incumbent serves as a testament to the respect and esteem in which he is held by his constituents and peers; and

WHEREAS, With almost two decades of legislative experience, this astute gentleman has introduced legislation concerned with a broad spectrum of issues, with a special emphasis on the welfare of veterans in Texas; few state officials have

done as much for the veterans of this state as has Senator Williams; he has had more legislation passed regarding veterans than any other legislator in state history; and

WHEREAS, Senator Williams's elections as President Pro Tempore of the Texas Senate and as Governor for a Day were among the highlights of his notable legislative career; it has been said of this august statesman by his colleagues that he is "the epitome of the kind of fine Senate leader who makes the system work," that one "can always count on his dutiful attendance," and that "his word always means a great deal"; and

WHEREAS, Widely regarded for his innate ability to work well with his fellow Senators, this seasoned teamplayer has earned the admiration of his peers; and

WHEREAS, A life member of the Veterans of Foreign Wars, American Legion, and Disabled American Veterans, Senator Williams ably served his country during his military service in the Korean War; and

WHEREAS, Active in the life of his community, this public official has served as president of the Chamber of Commerce and a member of various service groups in Houston; he holds membership in the Masonic Order, the YMCA, the Eagles, Elks, and Rotary Club, and is a 33rd Degree Scottish Rite Mason and a Shriner; and

WHEREAS, In recognition for his many contributions to his district and state on behalf of teachers, firemen, police, veterans, the disabled, the disadvantaged, the elderly, and the unemployed, Lindon Williams was awarded an honorary doctorate in law from Houston Baptist University; and

WHEREAS, Serving beside her husband throughout his tenure in the Legislature, Mrs. Evelyn Williams continues to be a source of strength and companionship; married on Valentine's Day in 1964, the couple are loving and supportive parents to their two handsome sons, Gerald and Lindon II; all are active members of the Woodforest Baptist Church; and

WHEREAS, The commissioners of Harris County have honored Senator Williams with an appointment as a Justice of the Peace of Harris County; leaving the Senate with an exemplary record of success, Senator Williams looks forward to having time with his family; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 69th Legislature, extend its highest praise to Senator Lindon Williams on the day of his retirement from the Legislature of the State of Texas and express its deepest appreciation to this legislator who has displayed qualities of knowledge and concern for the people of the State of Texas during a career of public service; and, be it further

RESOLVED, That a copy of this Resolution be prepared under the seal of the Senate for Senator Lindon Williams as a tribute to his leadership, his accomplishments, and as an expression of the affection and esteem of his fellow Members with best wishes for continued happiness and success in all future endeavors.

BROOKS
MAUZY

The resolution was read and was adopted.

On motion of Senator Mauzy and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Brooks the resolution was adopted.

PRESENTATION TO SENATOR WILLIAMS

Senator Williams was presented a copy of **S.R. 539** and was given a standing ovation by the Members of the Senate.

Senator Williams addressed the Senate, expressing his pride in having served in the Legislature.

SENATE BILL 21 WITH HOUSE AMENDMENT

Senator Sarpalius called **S.B. 21** from the President's table for consideration of the House amendment to the bill.

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

Committee Amendment No. 1 - Watson

Substitute the following for **S.B. 21**:

A BILL TO BE ENTITLED
AN ACT

relating to alcoholic beverage regulations relating to age.

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

SECTION 1. The purpose of this Act is to avoid the imposition of sanctions against the state and loss of federal highway funds pursuant to certain of the provisions of Public Law 98-363 passed by the 98th Congress, 2nd Session (1984), and as set out in 23 United States Code Section 158 by raising the minimum age for the purchase and public possession of liquor and beer.

SECTION 2. Section 11.46(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may refuse to issue an original or renewal permit with or without a hearing if it has reasonable grounds to believe and finds that any of the following circumstances exists:

(1) the applicant has been convicted in a court of competent jurisdiction of the violation of any provision of this code during the two years immediately preceding the filing of his application;

(2) three years have not elapsed since the termination, by pardon or otherwise, of a sentence imposed on the applicant for the conviction of a felony;

(3) within the six-month period immediately preceding his application the applicant violated or caused to be violated a provision of this code or a rule or regulation of the commission which involves moral turpitude, as distinguished from a technical violation of this code or of the rule;

(4) the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;

(5) the applicant is indebted to the state for any taxes, fees, or payment of penalty imposed by this code or by rule of the commission;

(6) the applicant is not of good moral character or his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad;

(7) the applicant is <u>a minor</u> [~~less than 19 years of age~~];

(8) the place or manner in which the applicant may conduct his business warrants the refusal of a permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(9) the applicant is in the habit of using alcoholic beverages to excess or is physically or mentally incapacitated;

(10) the applicant will sell liquor unlawfully in a dry area or in a manner contrary to law or will knowingly permit an agent, servant, or employee to do so;

(11) the applicant is not a United States citizen or has not been a citizen of Texas for a period of three years immediately preceding the filing of his application, unless he was issued a permit or renewal permit on or before September 1, 1948, and has at some time been a United States citizen;

(12) the applicant does not have an adequate building available at the address for which the permit is sought;

(13) the applicant is residentially domiciled with a person whose permit or license has been cancelled for cause within the 12 months immediately preceding the date of his present application;

(14) the applicant has failed or refused to furnish a true copy of his application to the commission's district office in the district in which the premises for which the permit is sought are located; or

(15) during the six months immediately preceding the filing of the application the premises for which the permit is sought have been operated, used, or frequented for a purpose or in a manner that is lewd, immoral, or offensive to public decency.

SECTION 3. Section 39.31, Alcoholic Beverage Code, is amended to read as follows:

Sec. 39.31. SALES TO MINORS. No holder of a medicinal permit or any of his agents or employees may sell or dispense any liquor to a minor [~~person under 19 years of age~~] unless that minor presents with his prescription the written consent of his parent or guardian. The person making the sale shall file the written consent with the prescription.

SECTION 4. Section 40.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 40.05. PROHIBITED ACTIVITIES. No physician may:

(1) prescribe liquor for any purpose unless he holds a physician's permit;

(2) prescribe liquor for other than medicinal purposes;

(3) issue prescriptions for liquor to any person without first making a physical examination of the patient to determine the disease or ailment afflicting him;

(4) issue a prescription which does not contain all the information required by this chapter written in the English language;

(5) accept any sort of compensation or guarantee as to income or material benefit from a holder of a medicinal permit for writing a prescription;

(6) prescribe more than one pint of liquor for a person in any one day;

(7) prescribe liquor for any person showing evidence of intoxication;

(8) prescribe liquor for any person under any name other than the true name of the person for whom the liquor is intended;

(9) prescribe liquor for any minor [~~person under the age of 19 years~~] unless he has the written consent of the minor's [~~person's~~] parent or guardian.

(10) issue more than 100 prescriptions for liquor in any period of 90 days, beginning from the date designated by the physician in any order for prescription forms placed with the commission;

(11) fail or refuse to make and keep for a period of two years any record of prescriptions issued for liquor as required by the commission;

(12) fail to make reports required by the commission; or

(13) fail to divulge information or produce records of the issuance of prescriptions when requested to do so by a representative of the commission or by any peace officer or any county or district attorney.

SECTION 5. Section 61.42(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The county judge shall refuse to approve an application for a license as a distributor or retailer if he has reasonable grounds to believe and finds that:

(1) the applicant is a minor [~~under 19 years of age~~];

(2) the applicant is indebted to the state for any taxes, fees, or penalties imposed by this code or by rule of the commission;

(3) the place or manner in which the applicant for a retail dealer's license may conduct his business warrants a refusal of a license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(4) the applicant is in the habit of using alcoholic beverages to excess or is mentally or physically incompetent;

(5) the applicant is not a United States citizen or has not been a citizen of Texas for a period of three years immediately preceding the filing of his application, unless he was issued an original or renewal license on or before September 1, 1948;

(6) the applicant was finally convicted of a felony during the two years immediately preceding the filing of his application;

(7) the applicant is not of good moral character or his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad; or

(8) as to a corporation, it is not incorporated under the laws of this state, or at least 51 percent of the corporate stock is not owned at all times by persons who individually are qualified to obtain a license, except that this subdivision does not apply to a holder of any renewal of a distributor's license which was in effect on January 1, 1953, or to an applicant for a beer retailer's on-premise license for a railway car.

SECTION 6. Section 61.71(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) made a false statement or a misrepresentation in his original application or a renewal application;

(5) knowingly sold, served, or delivered beer to a minor [~~person under 19 years of age~~];

(6) sold, served, or delivered beer to a person showing evidence of intoxication;

(7) sold, served, or delivered beer at a time when its sale is prohibited;

(8) entered or offered to enter an agreement, condition, or system which would constitute the sale or possession of alcoholic beverages on consignment;

(9) possessed on the licensed premises, or on adjacent premises directly or indirectly under his control, an alcoholic beverage not authorized to be sold on the licensed premises, or permitted an agent, servant, or employee to do so, except as permitted by Section 22.06, 24.05, or 102.05 of this code;

(10) does not have at his licensed premises running water, if it is available, and separate toilets for both sexes which are properly identified;

(11) permitted a person on the licensed premises to engage in conduct which is lewd, immoral, or offensive to public decency;

(12) employed a person under 18 years of age to sell, handle, or dispense beer, or to assist in doing so, in an establishment where beer is sold for on-premises consumption;

(13) conspired with a person to violate Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06 of this code, or a rule

promulgated under Section 5.40 of this code, or accepted a benefit from an act prohibited by any of these sections or rules;

(14) refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the commission or a peace officer;

(15) permitted the use or display of his license in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;

(16) maintained blinds or barriers at his place of business in violation of this code;

(17) conducted his business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(18) consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code;

(19) purchased beer for the purpose of resale from a person other than the holder of a manufacturer's or distributor's license;

(20) acquired an alcoholic beverage for the purpose of resale from another retail dealer of alcoholic beverages;

(21) owned an interest of any kind in the business or premises of the holder of a distributor's license;

(22) purchased, sold, offered for sale, distributed, or delivered an alcoholic beverage, or consumed an alcoholic beverage or permitted one to be consumed on the licensed premises while his license was under suspension;

(23) purchased, possessed, stored, sold, or offered for sale beer in or from an original package bearing a brand or trade name of a manufacturer other than the brand or trade name shown on the container;

(24) habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage his establishment;

(25) imported beer into this state except as authorized by Section 107.07 of this code;

(26) occupied premises in which the holder of a manufacturer's or distributor's license had an interest of any kind;

(27) knowingly permitted a person who had an interest in a permit or license which was cancelled for cause to sell, handle, or assist in selling or handling alcoholic beverages on the licensed premises within one year after the cancellation;

(28) was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by his license, except as permitted by Section 22.06, 24.05, or 102.05 of this code;

(29) is residentially domiciled with or related to a person engaged in selling distilled spirits, except as permitted by Section 22.06, 24.05, or 102.05 of this code, so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code; or

(30) is residentially domiciled with or related to a person whose license has been cancelled within the preceding 12 months so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code.

SECTION 7. Section 61.74(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal general, local, or branch distributor's license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) violated Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06 of this code, or a rule or regulation promulgated under Section 5.40 of this code;

(5) failed to comply with a requirement of the commission relating to the keeping of records or making of reports;

(6) failed to pay any tax due the state on any beer he sold, stored, or transported;

(7) refused to permit or interfered with an inspection of his licensed premises, vehicles, books, or records by an authorized representative of the commission;

(8) consummated a sale of beer outside the county or counties in which he was authorized to sell beer by his license;

(9) purchased, sold, offered for sale, distributed, or delivered beer while his license was under suspension;

(10) permitted the use of his license in the operation of a business conducted for the benefit of a person not authorized by law to have an interest in the business;

(11) made a false or misleading representation or statement in his original application or a renewal application;

(12) habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage his establishment;

(13) misrepresented any beer sold by him to a retailer or to the public;

(14) knowingly sold or delivered beer to a minor [~~person under 19 years of age~~]; or

(15) purchased, possessed, stored, sold, or offered for sale beer in an original package bearing a brand or trade name of a manufacturer other than the brand or trade name of the manufacturer shown on the container.

SECTION 8. Section 106.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 106.01. DEFINITION. In this code, "minor" means a person under 21 [~~19~~] years of age.

SECTION 9. Section 106.03(b), Alcoholic Beverage Code, is amended to read as follows:

(b) A person who sells a minor an alcoholic beverage does not commit an offense if the minor falsely represents himself to be 21 [~~19~~] years old or older by displaying an apparently valid Texas driver's license or an identification card issued by the Texas Department of Public Safety, containing a physical description consistent with his appearance for the purpose of inducing the person to sell him an alcoholic beverage.

SECTION 10. Section 106.07(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A minor commits an offense if he falsely states that he is 21 [~~19~~] years of age or older or presents any document that indicates he is 21 [~~19~~] years of age or older to a person engaged in selling or serving alcoholic beverages.

SECTION 11. Section 106.12(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Any person convicted of not more than one violation of this code while a minor, on attaining the age of 21 [~~19~~] years, may apply to the court in which he was convicted to have the conviction expunged.

SECTION 12. Section 107.07(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A Texas resident may import not more than one quart of liquor for his own personal use without being required to hold a permit. A Texas resident may import for his own personal use not more than three gallons of wine without being required to hold a permit. A nonresident of Texas may import not more than a gallon of liquor for his own personal use without being required to hold a permit. A person importing liquor into the state under this subsection must pay the state tax on liquor and affix the required tax stamps. No minor [~~person under the age of 19 years~~] and no intoxicated person may import any liquor into the state. A person importing wine or liquor under this subsection must personally accompany the wine or liquor as it enters the state. A person may not avail himself of the exemptions set forth in this subsection more than once every thirty days.

SECTION 13. Section 109.53, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.53. CITIZENSHIP OF PERMITTEE; CONTROL OF PREMISES; SUBTERFUGE OWNERSHIP; ETC. No person who has not been a citizen of Texas for a period of three years immediately preceding the filing of his application therefor shall be eligible to receive a permit under this code. No permit except a brewer's permit, and such other licenses and permits as are necessary to the operation of a brewer's permit, shall be issued to a corporation unless the same be incorporated under the laws of the state and unless at least 51 percent of the stock of the corporation is owned at all times by citizens who have resided within the state for a period of three years and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations that were engaged in the legal alcoholic beverage business in this state under charter or permit prior to August 24, 1935. Partnerships, firms, and associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation (except carrier) holding a permit under this code which shall violate any provisions hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the attorney general, when any such violation is called to his attention, to file a suit for such cancellation in a district court of Travis County. Such provisions of this section as require Texas citizenship or require incorporation in Texas shall not apply to the holders of agent's, industrial, medicinal and carrier's permits. No person shall sell, warehouse, store or solicit orders for any liquor in any wet area without first having procured a permit of the class required for such privilege, or consent to the use of or allow his permit to be displayed by or used by any person other than the one to whom the permit was issued. It is the intent of the legislature to prevent subterfuge ownership of or unlawful use of a permit or the premises covered by such permit; and all provisions of this code shall be liberally construed to carry out this intent, and it shall be the duty of the commission or the administrator to provide strict adherence to the general policy of preventing subterfuge ownership and related practices hereinafter declared to constitute unlawful trade practices. No applicant for a package store permit or a renewal thereof shall have authority to designate as "premise" and the commission or administrator shall not approve a lesser area than that specifically defined as "premise" in Section 11.49(a) of this code. Every permittee shall have and maintain exclusive occupancy and control of the entire licensed premises in every phase of the storage, distribution, possession, and transportation and sale of all alcoholic beverages purchased, stored or sold on the

licensed premises. Any device, scheme or plan which surrenders control of the employees, premises or business of the permittee to persons other than the permittee shall be unlawful. No minor [~~person under the age of 19 years~~], unless accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some court, shall knowingly be allowed on the premises of the holder of a package store permit. The prohibition against the presence of a minor [~~person under the age of 19 years~~] on the premises of the holder of a package store permit does not apply to the presence on the premises of the holder or a person lawfully employed by the holder. Any package store permittee who shall be injured in his business or property by another package store permittee by reason of anything prohibited in this section may institute suit in any district court in the county wherein the violation is alleged to have occurred to require enforcement by injunctive procedures and/or to recover threefold the damages by him sustained; plus costs of suit including a reasonable attorney's fee. The provision prohibiting the licensing of only a portion of a building as a premise for a package store permit shall not apply to hotels as already defined in this code.

SECTION 14. The changes in the minimum age made by the preceding sections of this Act do not affect the eligibility of a person who holds a license or permit on the effective date of the preceding sections of this Act to continue to hold and renew the license or permit and to continue to engage in the activities authorized by the license or permit.

SECTION 15. (a) If the attorney general finds that Public Law 98-363 as it relates to the imposition of sanctions against a state involving federal highway funds for failing to increase the age at which persons may purchase or consume alcoholic beverages is repealed, has expired, is suspended, or the enforcement of it has for any reason been enjoined, or if the attorney general finds that a United States court of appeals or the United State Supreme Court has entered a final order holding that the federal law, to the extent it has the described effect, or a rule implementing it is unconstitutional or otherwise invalid, in whole or in part, or if the attorney general finds that another Act of Congress has the effect of abrogating the sanctions imposed by Public Law 98-363, the attorney general shall file a certificate of that fact with the secretary of state. The secretary shall publish the certificate in the Texas Register.

(b) The preceding sections of this Act take effect September 1, 1986, except that if before that date the attorney general has filed with the secretary of state a certificate finding the existence of one of the facts specified in Subsection (a) of this section, the effective date of the preceding sections of this Act is delayed until the 30th day after the date on which the attorney general files another certificate with the secretary of state stating that none of the facts specified in Subsection (a) of this section exists. The secretary shall publish the certificate in the Texas Register.

(c) If, after the preceding sections of this Act have taken effect, the attorney general files with the secretary of state a certificate finding that one of the facts specified in Subsection (a) of this section exists, then effective on the date specified in Subsection (d) of this section the following sections of the Alcoholic Beverage Code are amended as follows:

(1) Section 106.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 106.01. DEFINITION. In this code, "minor" means a person under 19 years of age.

(2) Section 106.03(b), Alcoholic Beverage Code, is amended to read as follows:

(b) A person who sells a minor an alcoholic beverage does not commit an offense if the minor falsely represents himself to be 19 years old or older by displaying an apparently valid Texas driver's license or an identification card issued

by the Texas Department of Public Safety, containing a physicial description consistent with his appearance for the purpose of inducing the person to sell him an alcoholic beverage.

Section 106.07(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A minor commits an offense if he falsely states that he is 19 years of age or older or represents any document that indicates he is 19 years of age or older to a person engaged in selling or serving alcoholic beverages.

(4) Section 106.12(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Any person convicted of not more than one violation of this code while a minor, on attaining the age of 19 years, may apply to the court in which he was convicted to have the conviction expunged.

(d) The contingency described in Subsection (c) of this section takes effect as follows:

(1) if the certificate is filed at a time when the legislature is not convened in regular session, the effective date is June 15 immediately after the next regular session of the legislature; and

(2) if the certificate is filed while the legislature is convened in regular session, the effective date is June 15 immediately after final adjournment of that regular session.

SECTION 16. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read.

Senator Sarpalius moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Caperton.

SENATE BILL 32 WITH HOUSE AMENDMENT

Senator Farabee called **S.B. 32** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1 - McKinney

(1) Amend **S.B. 32**, SECTION 1, Section 1, Subsection (a) by deleting "the justice of the peace or".

(2) Amend **S.B. 32**, SECTION 1, Section 1, Subsection (a)(1) by deleting "the justice of the peace or".

(3) Amend **S.B. 32**, SECTION 1, Section 1, Subsection (a)(2) by deleting "the justice of the peace or".

(4) Amend **S.B. 32**, SECTION 1, Section 1, Subsection (b) to read as follows:

"(b) The consent of a person listed in Section 2 of this Act to the taking of organs and tissues is required only as follows:

"(1) in the case of visceral organs, the medical examiner or a person acting upon the authority of the medical examiner must obtain consent to remove a visceral organ;

"(2) in the case of other organs and tissues, the medical examiner or a person acting upon the authority of the medical examiner must obtain consent where such

person is known and available within four hours after the pronouncement of death. In cases where a person listed in Section 2 of this Act cannot be identified and contacted within the four hour period, the medical examiner may permit the taking of the organs and tissues only upon determining that no reasonable likelihood exists that such person can be identified and contacted.

(5) Amend **S.B. 32**, SECTION 1, Section 1, Subsection (d) to read as follows:

"(d) Once a person listed in Section 2 of this Act has been contacted by the medical examiner or a person acting upon the authority of the medical examiner, this statute has no effect and the organ or tissue may only be removed with the consent of a person listed in Section 2 of this Act.

(6) Amend **S.B. 32**, SECTION 1, Section 2 by deleting "the justice of the peace or".

(7) Amend **S.B. 32**, SECTION 1, Section 3 to read as follows:

"Section 3. The medical examiner, the medical facility, the physician or physicians acting upon the permission of the medical examiner, and those assisting the physician or physicians are not liable for damages in a civil action brought by a person listed in Section 2 of this Act who has not objected prior to the removal of the tissue or body part specififed in Section 1 of this Act on any theory of civil recovery based on a contention that the consent of plaintiff was required prior to the removal of the tissue or body part authorized by this Act.

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed.

(President in Chair)

SENATE BILL 189 WITH HOUSE AMENDMENT

Senator Blake called **S.B. 189** 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 - Messer

Amend **S.B. 189** as follows:

(1) On page 1, line 22, strike "made part of the record" and substitute "filed with the papers related to the case".

(2) On page 2, line 1, between "case" and the period, insert ", and shall include with each copy a list of the parties to whom copies of the communication are being provided".

(3) On page 2, line 11, between "legislator" and "shall" insert "or employee".

The amendment was read.

Senator Blake moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 382 WITH HOUSE AMENDMENT

Senator Mauzy called **S.B. 382** 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.

Floor Amendment No. 1 - Cain

Amend **S.B. 382**, page 1, line 19, by striking the words "to comply with this requirement" and substituting therefore the words "to file a copy".

The amendment was read.

Senator Mauzy moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 469 WITH HOUSE AMENDMENT

Senator Glasgow called **S.B. 469** 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.

Floor Amendment - J. Parker

Amend **S.B. 469** as follows:

1. Amend subsection (b)(7) by deleting the word "and" after the semicolon.

2. Amend subsection (b)(8) by changing the comma after the word "designee" to a semicolon, and deleting the phrase "the county clerk or his designee" after the word "and."

3. Add a new subsection (b)(9) to read as follows: "(b)(9) the county clerk or his designee, except in those counties where the county clerk has no criminal matters jurisdiction."

The amendment was read.

Senator Glasgow moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 513 WITH HOUSE AMENDMENT

Senator Sarpalius called **S.B. 513** 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 - Buchanan

Substitute the following for **S.B. 513**:

A BILL TO BE ENTITLED
AN ACT

relating to the authority of a county to construct, improve, maintain, or repair city streets and alleys with the consent of the city; adding Section 2.010 to the County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes).

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

SECTION 1. The County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes) is amended by adding Section 2.010 to read as follows:

Section 2.010. COUNTY AUTHORITY WITHIN CITY OR TOWN. (a) The Commissioners Court of a county may expend county funds to finance the construction, improvement, maintenance, or repair of a street or alley located in the county within the limits of an incorporated city or town if the work on the street or alley is done with the consent and approval of the governing body of the city or town.

(b) The authority of the county to finance the construction, improvement, maintenance, or repair of the street or alley includes the authority to provide any

necessary roadbed preparation or material, paving or other hard covering of the street or alley, curbing or guttering, or bridges or drainage facilities.

(c) The construction, improvement, maintenance, or repair may be done or financed:

(1) by the county through the use of county equipment; provided, however, that a county acting under this subsection may not expend bond funds for the construction of new roads within the incorporated limits of a city or town unless such construction is specifically authorized in the election approving the issuance of such bonds regardless of the source of the funds used to acquire that equipment;

(2) by an independent contractor with whom the county has contracted or by the county as an independent contractor with the city; or

(3) by the city or town, with the city or town to be reimbursed by the county.

(d) A county acting under this section, has, to the extent practicable, the same powers and duties regarding the levying of assessments for the construction, improvement, maintenance, or repair that the city or town would have if the city or town were to finance and undertake the construction, improvement, maintenance, or repair.

(e) The authority granted under this section is in addition to any authority granted to a county under the laws of this state or by a local road law and shall not limit the authority of that county granted under such laws.

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 amendment was read.

Senator Sarpalius moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 527 WITH HOUSE AMENDMENT

Senator Henderson called **S.B. 527** 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 - Buchanan

Amend **S.B. 527** as follows:

(1) On page 1, strike line 12 and insert the following:

"municipal waste, the commission shall consider any adjudicated decision on or compliance proceeding addressing past performance"

The amendment was read.

Senator Henderson moved to concur in the House amendment.

The motion prevailed.

CONFERENCE COMMITTEE REPORT
SENATE BILL 1246

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 1246** 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.

FARABEE	RUDD
JONES	UHER
TRAEGER	WOLENS
McFARLAND	McWILLIAMS
EDWARDS	HARRISON
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the State Auditor and the finances of certain state governmental bodies and agencies and to the coordination of the functions of certain state agencies; amending Chapter 293, Acts of the 48th Legislature, 1943, by adding Sections 8D and 15A; by amending Sections 3 and 4; and by repealing Sections 6 and 7a; and adding Section 2A to Chapter 3, Acts of the 65th Legislature, Regular Session, 1977 (Articles 4413-7a et seq., 4413a-9, 4413a-10, and 5429g, Vernon's Texas Civil Statutes).

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

SECTION 1. Chapter 293, Acts of the 48th Legislature, 1943 (Article 4413a-7a et seq., Vernon's Texas Civil Statutes), is amended by adding Sections 8D and 15A to read as follows:

"Section 8D. The State Auditor shall conduct an audit of each department at least once in each state fiscal biennium."

"Section 15A. At least once in each six-year period, a comprehensive management evaluation shall be conducted to analyze the administration and operation of the State Auditor's office. The Legislative Audit Committee shall select an independent person or firm to perform the evaluation. The person or firm conducting an evaluation under this section shall file a report of the evaluation with the Legislative Audit Committee. The report is public information."

SECTION 2. Sections 3 and 4, Chapter 293, Acts of the 48th Legislature, 1943 (Articles 4413a-9 and 4413a-10, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 3. Such Committee, or the majority of the membership thereof, shall appoint an investigator of all custodians of public funds, disbursing agents, and personnel of departments, the title of such officer to be State Auditor. The [~~appointment shall be made during the period from February 1st to February 15th of each odd numbered year, and the~~] person so appointed State Auditor serves at the will of the Committee [~~shall hold the office until his successor is appointed and qualifies; provided, however, that within ten (10) days of the effective date of this Act, or as soon thereafter as practicable, such Committee shall appoint an Auditor for the period expiring February 15, 1945. Such Auditor shall be a Certified Public Accountant of Texas~~].

"Section 4. (a) To be eligible for appointment as [~~The person appointed~~] State Auditor, a person must [~~shall have had at least five (5) years experience as a Certified~~

~~Public Accountant immediately preceding his appointment, and he shall~~] be [a ~~man~~] of unquestioned integrity and moral character and must have had a minimum of five years' experience in both of the following:

"(1) as a certified public accountant in this or another state; and

"(2) in a professional or administrative position a major duty of which involved fiscal management, the review of fiscal management, or the auditing or review of operational efficiency or program performance.

"(b) The person appointed [~~who has had sufficient experience in business and finance to properly discharge the functions of the office. He shall have been a citizen and resident of Texas for at least five (5) years immediately preceding his appointment. He~~] shall qualify by taking the Constitutional oath of office and executing a bond to be approved by the appointing power, payable to the Governor of the State of Texas and his successors in office, in an amount determined by the Legislative Audit Committee to be sufficient to protect the interests of the state [~~the sum of Twenty-five Thousand ($25,000.00) Dollars~~], conditioned upon the faithful discharge of the duties of the [~~his~~] office, with a solvent surety company as surety. At least once in each five-year period the Legislative Audit Committee shall review the amount of the bond and adjust the amount as necessary to take account of changed conditions. The premium due the surety company for the execution of the [~~such~~] bond shall be paid by the state."

SECTION 3. Chapter 3, Acts of the 65th Legislature, Regular Session, 1977 (Article 5429g, Vernon's Texas Civil Statutes), is amended by adding Section 2A to read as follows:

"Section 2A. The State Auditor's Office, Legislative Budget Board, and Sunset Advisory Commission shall form a committee to meet on a regular basis, not less often than quarterly, to make recommendations relating to the coordination of the agencies' functions. The State Auditor shall call each meeting. Each agency shall designate a supervisory level staff member as its representative on the committee. The committee shall submit its recommendations in writing to the head of each agency not later than one month after the date of a meeting."

SECTION 4. Sections 6 and 7a, Chapter 293, Acts of the 48th Legislature, 1943 (Article 4413a-7a et seq., Vernon's Texas Civil Statutes), are repealed.

SECTION 5. (a) The Legislative Audit Committee shall select the person or firm for the initial evaluation required by Section 15A, Chapter 293, Acts of the 48th Legislature, 1943 (Article 4413a-7a et seq., Vernon's Texas Civil Statutes), before January 1, 1990.

(b) The State Auditor shall call the initial meeting of the committee provided for by Section 2A, Chapter 3, Acts of the 65th Legislature, Regular Session, 1977 (Article 5429g, Vernon's Texas Civil Statutes), before the 90th day after the effective date of this Act.

SECTION 6. Section 2 of this Act applies to any appointment of a State Auditor, either to a full or an unexpired term, occurring on or after the effective date of this Act.

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, 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.

SENATE BILL 538 WITH HOUSE AMENDMENTS

Senator Jones called **S.B. 538** 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.

Floor Amendment - A. Jones

Amend **S.B. 538** on page 2, lines 14 through 18, by deleting the existing language and substituting the following:

(5) the portion of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in the year that is the subject of the study, calculated by dividing the taxable value of residence homesteads of the elderly determined as provided by Section 11.26(e), Tax Code, by the weighted average level of appraisal of residence homesteads in each school district [~~as provided by Section 11.26(e), Tax Code~~]; and

Committee Amendment No. 1 - R. Lewis

Amend **S.B. 538** by amending Section 11.86(a)(5) to read as follows:

(5) the portion of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law ~~provided by Section 11.26(e), Tax Code~~; [~~and~~]

Committee Amendment No. 2 - Schlueter

Amend **S.B. 538** as follows:

Amend SECTION 2, at page 3, line 2, by adding the following after the period:
Any change in value for any school district resulting from this Act shall not be considered as a rapid decline in tax base for purposes of Section 16.252(e) of this code.

The amendments were read.

Senator Jones moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 633 WITH HOUSE AMENDMENTS

Senator Brooks called **S.B. 633** 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 - Madla

Amend **S.B. 633** as follows:

(1) On page 1 strike Section 2.09 in its entirety and amend the caption accordingly.

(2) On page 5, line 8, strike the sentence beginning with "The appointment" and ending with "this Act."

Committee Amendment No. 2 - Madla

Amend **S.B. 633** as follows:

On page 9, line 26, insert the following between "Department." and "For":
"If such match is specified, it shall be uniformly required of all providers or contractors in the service area."

Committee Amendment No. 3 - Lee

Amend **S.B. 633**, page 10, line 12, to read as follows:
"policy which is the same for community centers and other designated providers which"

Committee Amendment No. 4 - Lee

Amend **S.B. 633**, page 9, line 25, to read as follows:
"state funds be matched by local support. If such match is specified, it shall be uniformly required of all providers or contractors in the service area. Local support shall be in such proportions and"

Committee Amendment No. 5 - Madla

Amend SECTION 4 of **S.B. 633** by deleting the following language from Subsection (d) of Section 4.03, beginning on line 4 of page 10:
"The Department in the terms of its contract may require that the matching local support be used to provide the specific services for priority client populations as required for the use of the contracted for state funds. The use of other local funds contributed to a community center or other designated provider is the prerogative of the board of trustees or administrative authority of the designated provider."

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 660 WITH HOUSE AMENDMENT

Senator Parmer called **S.B. 660** 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 - Willis

A BILL TO BE ENTITLED
AN ACT

relating to a statement of testimony of a child in certain proceedings under Title 3, Family Code; amending Subsection (a), Section 11.21, Family Code.

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

SECTION 1. Subsection (a), Section 11.21, Family Code, is amended to read as follows:

"(a) This section applies only to a proceeding affecting the parent-child relationship, including but not limited to a proceeding under Title 2 or 4 of this code, and to a proceeding under Title 3 of this code, in which a child 12 years of age or younger is alleged to have been abused, and applies only to the statement or testimony of that child."

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 amendment was read.

Senator Parmer moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Glasgow.

SENATE BILL 746 WITH HOUSE AMENDMENTS

Senator Henderson called **S.B. 746** 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.

Floor Amendment No. 1 - Hammond

Amend **S.B. 746** as follows:

(1) On page 6, line 25, at the end of Art. 7(d), add: "At the time the banking department receives a certified copy of a final judgement (from which all appeals have been exhausted) entered by a court of competent jurisdiction determining that any of the prohibitions established by Section 7(i) of this chapter are unenforceable:

(1) all licenses shall be revoked by the banking department;
(2) all license applications then pending shall be rejected;
(3) no further licenses shall be granted; and
(4) thereafter all agencies of foreign bank corporations shall be prohibited."

(2) On page 8, strike lines 13-15 and substitute: "(i) The operation of a Federal agency of a foreign bank corporation having as its home State a state other than this state is hereby expressly prohibited. No foreign bank corporation may maintain a branch in this state. As used in this section 7(i) the terms "Federal agency" and "home State" bear the respective meanings established by the International Banking Act of 1978 [12 U.S.C. Subsections 3101 and 3103(c)]."

Floor Amendment No. 2 - Hammond

Amend **S.B. 746** as follows:

On page 5, between lines 17 and 18, insert:
"(h) The banking department shall disapprove any application of a foreign bank corporation organized or chartered under the laws of the Republic of South Africa or any political subdivision thereof."

Amend **S.B. 746** on page 5, subsection (h) to add the follow-words between "Republic of South Africa" and "or any political subdivision thereof.":
"Union of Soviet Socialist Republics, Poland, Czechslovakia, Hungary, Bulgaria, East Germany, Rumania, Albania, Yugoslavia, Ethiopia, Mozambique, Tanzania, Nicaragua, Vietnam, Campeche, South Yemen, Angola, Cuba, China, Finland, Afghanistan, Laos, Cambodia, Mongolia, and North Korea."

Floor Amendment No. 3 - Hammond

Amend **S.B. 746**, striking Article 5, Subsection (h) in its entirety.

The amendments were read.

Senator Henderson moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 782 WITH HOUSE AMENDMENT

Senator Jones called **S.B. 782** 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.

Floor Amendment - Gibson

Amend **S.B. 782** as follows:

(1) On page 27, line 19, strike "and".
(2) On page 27, between lines 19 and 20, insert:
"(5) approved claims of subordinated creditors; and"
(3) On page 27, line 20, strike "(5)" and substitute "(6)".
(4) Strike Section 22 of the bill.
(5) Renumber Section 23 of the bill as Section 22.
(6) On page 28, line 21, between "suspended" and the period, insert ", 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 Jones moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 791 WITH HOUSE AMENDMENT

Senator Brown called **S.B. 791** 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 - Agnich

Amend **S.B. 791**, Section 1, page 2, Section 43.405, subsection (c), by adding the following phrase after the word "management":
"and are hereby appropriated for such purposes."

Amend **S.B. 791**, Section 3, page 6, Section 43.505, subsection (c), by adding the following phrase after the word "code":
"and are hereby appropriated for such purposes."

The amendment was read.

Senator Brown moved to concur in the House amendment.

The motion prevailed.

RECORD OF VOTE

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

SENATE CONCURRENT RESOLUTION 187

Senator Parker offered the following resolution:

BE IT RESOLVED by the Legislature of the State of Texas, That Rule 14, Section 9(a)(4), of the Rules of the House of Representatives, 69th Legislature, and Rule 96(a)(4) of the Rules of the Senate, 69th Legislature, are suspended as provided by House Rule 14, Section 9(f), and Senate Rule 96(f), to enable the conference committee appointed to adjust the differences between the House and Senate versions of **S.B. 578**, relating to the implementation of Article VII, Section 17(d), of the Texas Constitution, to insert the following section for the purpose of providing immediate effect to **H.B. 1147**, Acts of the 69th Legislature, Regular Session, 1985, relating to tuition at institutions of higher education:

SECTION _____. Notwithstanding the failure of **H.B. 1147**, Acts of the 69th Legislature, Regular Session, to receive the necessary number of votes required by Article III, Section 39, of the Texas Constitution concerning the effective date of laws, for that bill to have immediate effect, **H.B. 1147** applies beginning with the 1985-1986 academic school year to tuition for medical, dental, and veterinary medicine students, as provided in each institution's catalogue, and applies beginning with the fall semester, 1985, to tuition collected from all other students.

The resolution was read.

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

GUEST PRESENTED

Senator Glasgow was recognized and introduced the Capitol Physician for the Day, Dr. James E. Hunter of Bridgeport.

The Senate welcomed Dr. Hunter and expressed appreciation for his service.

SENATE BILL 802 WITH HOUSE AMENDMENTS

Senator Williams called **S.B. 802** 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 - A. Luna

A BILL TO BE ENTITLED
AN ACT

relating to the taking of competitive bids and the issuance of certificates of obligation by cities; providing penalties; amending the Bond and Warrant Law of 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), by amending Sections 1 and 2; amending Section 7, The Certificate of Obligation Act of 1971 (Article 2368a.1, Vernon's Texas Civil Statutes).

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

SECTION 1. Section 1, Bond and Warrant Law of 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. The word "city" as used in this Act shall include all cities and towns incorporated under General or Special Laws, and all cities operating under charter adopted under the provisions of Article 11, Section 5, of the Constitution of Texas, unless especially excepted under the terms of this Act.

The term "governing body" as used in this Act shall include the governing body of every city, whether designated as "Board of Aldermen," "City Council," "City Commission," or otherwise.

For the purposes of this Act the term "current funds," shall include money in the treasury, taxes in process of collection during such tax year, and all other revenues which may be anticipated with reasonable certainty during such tax year.

The term "bond funds" shall include money in the treasury already received from the sale of bonds, and the proceeds of bonds theretofore voted but not yet issued and delivered.

The term "time warrant" as used in this Act shall include any warrant issued by a city [~~or county~~] not payable out of current funds.

The term "exempted procurements" shall include any of the following:

(1) procurements made in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens, or to preserve the property of the city;

(2) procurements necessary to preserve or protect the public health or safety of the citizens of the city;

(3) procurements made necessary by unforeseen damage to public property, machinery or equipment;

(4) procurements for personal or professional services;

(5) procurements for work done and paid for by the day, as such work progresses;

(6) the purchase of land or right-of-way; and

(7) procurements where the functional requirements of the city can be satisfied by only one source. By way of example without limitation, this provision shall apply to procurements where competition is precluded because of the existence of patents, copyrights, secret processes or natural monopolies; purchase of films, manuscripts or books; purchases of electric power, gas, water and other utility services; and the purchase of captive replacement parts or components for equipment.

The term "high technology procurement" means the procurement of equipment, goods or services of a highly technical nature, including but not limited to: information processing equipment, software and firmware used in conjunction with information processing equipment, telecommunications equipment, radio and microwave systems, electronic distributed control systems (including building energy management systems) as well as technical services related to such equipment and goods.

The short title of this Act shall be "Bond and Warrant Law of 1931."

Nothing in this Act shall be construed as to affect any bonds or warrants legally issued or authorized to be issued and for which a tax has been levied for the payment of interest and principal thereof, prior to the time when this Act shall become effective and under the laws existing at that time, nor as affecting the matters covered by House Bill No. 981, Acts of the 42nd Legislature, Regular Session, provided that after June 1, 1932, the requirements of this Act with respect to notice, competitive bidding, and a referendum election shall also be complied with by all cities then acting under the provisions of said House Bill No. 981.

SECTION 2. Section 2, Bond and Warrant Law of 1931, as amended, (Article 2368a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. (a) Except in the case of exempted procurements, no city with a population of 50,000 or more shall make a contract requiring an expenditure or payment in amount exceeding $10,000, out of any fund or funds of any city creating or imposing an obligation or liability of any nature or character upon such city, without first submitting such proposed contract to competitive sealed bidding or competitive sealed proposals as provided in this section. Except in the case of exempted procurements, no city with a population of less than 50,000 shall make a contract requiring expenditure or payment in an amount exceeding 5,000 without first submitting such proposed contract to competitive sealed bidding as provided in this section.

(b) The competitive sealed bidding procedure as provided herein shall be used for the award of all contracts subject to the provisions of this section, except that in the case of insurance or high technology procurements the city may follow the competitive sealed proposal procedure provided in Subsection (c) of this section.

Whenever the competitive sealed bidding procedure applies to a proposed contract, notice of the time and place when and where such a contract shall be let shall be published in such city once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract; and said contract shall be let to the lowest responsible bidder. The governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works, then the successful bidder shall be required to give a good and sufficient bond in the full amount of the contract price, for the faithful performance of such contract,

executed by some surety company authorized to do business in this state in accordance with the provisions of Article 5160, Revised Statutes and the amendments thereto. However, the city in making any contract calling for or requiring the expenditure or payment of less than $100,000 may, in lieu of the bond requirement, provide in the contract that no money will be paid to the contractor until completion and acceptance of the work by the city. If there is no newspaper published in such city, then the notice of letting such contract shall be given by causing notice thereof to be posted at the city hall for 14 days prior to the time of letting such contract. Trade secrets and confidential information contained in the competitive sealed bids shall not be open for public inspection.

(c) The competitive sealed proposal procedure as provided in this subsection may be used by cities with a population of 50,000 or more for high technology procurements. Quotations shall be solicited through a request for proposals. Public notice for the request for proposals shall be made in the same manner as provided in Subsection (b) of this section for competitive sealed bidding. The request for proposals shall specify the relative importance of price and other evaluation factors, and the award of contract shall be made to the responsible offeror whose proposal is determined to be the most advantageous to the city taking into consideration the relative importance of price and other evaluation factors set forth in the request for proposals.

Where provided in the request for proposals, proposals shall be opened so as to avoid disclosure of contents to competing offerors and kept secret during the process of negotiation. Provided, however, all proposals that have been submitted shall be open for public inspection after contract award. Trade secrets and confidential information contained in the proposals shall not be open for public inspection.

As provided in the request for proposals and, under regulations promulgated by the governing body, discussions may be conducted with offerors who submit proposals determined to be reasonably qualified for selection for award. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.

(d) The notice provisions provided in Subsection (b) of this section shall apply to all contracts for which the governing body intends to issue time warrants with the right of referendum as contemplated in sections 3 and 4 hereof respectively.

(e) Provisions in reference to notice, advertisement thereof, requirements as to the taking of sealed bids based upon specifications for public improvements or purchases, and the manner of letting of contracts, as contained in the charter of a city, if in conflict with the provisions of this Act, shall be followed in such city notwithstanding any other provisions of this Act. The provisions of this Act and of Article 5160, Revised Statutes, as amended, relating to the furnishing of surety bond by contractors may be adopted by ordinance of the governing body of a city, notwithstanding conflicting city charter provisions.

(f) Any and all such contracts hereafter made by any city of this state without complying with the terms of this law shall be void and shall not be enforceable in any court of this state, and the performance of same in the payment of any money thereunder may be enjoined by any property taxpayer citizen of such city.

(g) Nothing in this law shall prevent a city from selecting a licensed insurance broker as the sole broker of record to obtain proposals and coverages for excess or surplus insurance which provides necessary coverage provisions and adequate limits of coverage in structuring layered excess coverages in all areas of risk requiring special consideration, including but not limited to public official liability, police professional liability, and airport liability. The insurance broker shall be retained on a fee basis only and shall not receive any other remuneration from any other source.

(h) CRIMINAL PENALTY. (1) A city officer or employee who knowingly or intentionally makes or authorizes purchases in order to avoid the competitive bidding requirements of this Act commits an offense. The offense is a Class C misdemeanor.

[~~No county, acting through its Commissioners Court, and no city in this state shall hereafter make any contract calling for or requiring an expenditure or payment in an amount exceeding five thousand dollars ($5,000.00) out of any fund or funds of any city or county or subdivision of any county creating or imposing an obligation or liability of any nature or character upon such county or any subdivision of such county, or upon such city, without first submitting such proposed contract to competitive bids.~~

[~~(b) Notice of the time and place when and where such contracts shall be let shall be published in such county (if concerning a county contract or contracts for such subdivision of such county) and in such city, (if concerning a city contract), once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract; and said contract shall be let to the lowest responsible bidder. The court and/or governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works, then the successful bidder shall be required to give a good and sufficient bond in the full amount of the contract price, for the faithful performance of such contract, executed by some surety company authorized to do business in this state in accordance with the provisions of Article 5160, Revised Statutes of 1925, and the amendments thereto. However, the city or county in making any contract calling for or requiring the expenditure or payment of less than Fifty-Thousand Dollars ($50,000.00) may, in lieu of the bond requirement, provide in the contract that no money will be paid to the contractor until completion and acceptance of the work by the city or county. If there is no newspaper published in such county, the notice of the letting of such contract by such county shall be given by causing notice thereof to be posted at the County Court House door for fourteen (14) days prior to the time of letting such contract. If there is no newspaper published in such city, then the notice of letting such contract shall be given by causing notice thereof to be posted at the City Hall for fourteen (14) days prior to the time of letting such contract. Provided, that in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens, or to preserve the property of such county, subdivision, or city, or when it is necessary to preserve or protect the public health of the citizens of such county or city, or in case of unforeseen damage to public property, machinery or equipment, this provision shall not apply; and provided further, as to contracts for personal or professional services; work done by such county or city and paid for by the day, as such work progresses; and the purchase of land and right-of-way for authorized needs and purposes, the provisions hereof requiring competitive bids shall not apply and in such cases the notice herein provided shall be given but only with respect to an intention to issue time warrants with right of referendum as contemplated in Sections 3 and 4 hereof respectively.~~

[~~(c) Provisions in reference to notice to bidders, advertisement thereof, requirements as to the taking of sealed bids based upon specifications for public improvements or purchases and the manner of letting of contracts, as contained in the charter of a city, if in conflict with the provisions of this Act, shall be followed in such city notwithstanding any other provisions of this Act. The provisions of this Act and of Article 5160, Revised Statutes of 1925, as amended, relating to the furnishing of surety bonds by contractors may be adopted by ordinance of the governing body of a city, notwithstanding conflicting city charter provisions.~~

[~~(d) Any and all such contracts or agreements hereafter made by any county or city in this state, without complying with the terms of this section, shall be void~~

~~and shall not be enforceable in any court of this state and the performance of same and the payment of any money thereunder may be enjoined by any property taxpaying citizen of such county or city.~~]

SECTION 3. Section 7, The Certificate of Obligation Act of 1971 (Article 2368a.1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. The provisions of Section 6 of this Act relating to advertisement for competitive bids shall not apply in the following instances:

(1) in case of a public calamity where it becomes necessary to act at once to relieve the necessity of the citizens or to preserve the property of such city or county; or

(2) where it is necessary to preserve or protect the public health of the citizens of such city or county; or

(3) in the case of unforeseen damage to public property, machinery or equipment; or

(4) contracts for personal or professional services; or

(5) work done by employees of the issuer and paid for as such work progresses; or

(6) the purchase of land, buildings, existing utility systems or rights-of-way for authorized needs and purposes; or

(7) expenditures for or relating to improvements to a city water system, sewer system, streets or drainage (any one or all) where the cost of at least one-third (1/3) of which is to be paid by special assessments levied against properties to be benefited thereby; or

(8) where the entire contractual obligation is to be paid from bond funds or current funds, or where an advertisement for bids has previously been published (in the manner authorized or permitted in Section 6) but the current funds or bond funds are not adequate to permit the awarding of a contract and the certificates are to be issued to provide the deficiency; [~~or~~]

(9) the sale of any public security as such term is defined in Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended by Chapter 3, Acts of the 61st Legislature, 2nd Called Session, 1969; or

(10) any other procurement for which the Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes), does not require competitive sealed bidding procedures as described in Section 6 of this Act.

Certificates authorized to be issued for the purpose or purposes specified in this section, in the discretion of the governing body of the issuer, may be sold for cash and the proceeds thereof shall be used only for the purpose or purposes for which the same were authorized; provided, (i) accrued interest received, if any, shall be deposited in the interest and sinking fund established for the payment of such certificates and (ii) no certificate may be sold for cash to pay for work done by employees of the issuer and paid for as such work progresses and (iii) a certified copy of the proceedings relating to the authorization of such certificates shall be submitted to the Attorney General of Texas and be approved by such officer as having been authorized in accordance with the provisions of this Act. It shall be the duty of the Attorney General of Texas to examine the proceedings relating to the authorization of such certificates and the provisions of Article 709 through Article 716, inclusive, of Title 22 of the Revised Civil Statutes of Texas, 1925, as amended, and Chapter 204, Acts of the 57th Legislature, Regular Session, 1961, as amended by Chapter 290, Acts of the 60th Legislature, Regular Session, 1967, shall apply to and govern the execution, approval, registration, and validity of such certificates. From and after the registration of such certificates by the Comptroller of Public Accounts, the same shall be incontestable for any cause.

Certificates approved by the Attorney General shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies,

building and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for any sinking funds of cities, towns, villages, counties, school districts and other political corporations or subdivisions of the State of Texas. Such certificates shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts and other political corporations or subdivisions of the State of Texas, and shall be lawful and sufficient security for said deposits at their face value when accompanied by all unmatured coupons, if any, appurtenant thereto.

SECTION 4. (a) This section is contingent on **S.B. 807**, Acts of the 69th Legislature, Regular Session, 1985, not becoming law. If **S.B. 807** does become law, this section has no effect.

(b) The Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes) is amended by adding Section 1a to read as follows:

Sec. 1a. Section 2 of this Act applies to a county in the same manner that it applies to a city. In applying Section 2 to a county, a reference in the section to a city shall be treated as if it were referring to a county, a reference to a governing body shall be treated as if it were referring to a commissioners court, and a reference to a city officer or employee shall be treated as if it were referring to a county officer or employee. Any criminal penalty established by Section 2 applies to a county officer or employee to the same extent that it applies to a city officer or employee. To the extent that it is not possible to apply Section 2 to a county, such as in matters referring to a city charter, Section 2 does not apply to a county.

(c) The following laws are repealed:

(1) Articles 1658, 1659, 1659a, 1659b, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, and 2367, Revised Statutes;

(2) Section 4.436, County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes); and

(3) Sections 25 and 26, Chapter 300, Acts of the 52nd Legislature, 1951 (Article 6812b, Vernon's Texas Civil Statutes).

SECTION 5. (a) This section is contingent on **S.B. 807**, Acts of the 69th Legislature, Regular Session, 1985, becoming law. If **S.B. 807** does not become law, this section has no effect.

(b) Until **S.B. 807**, Acts of the 69th Legislature, Regular Session, 1985, takes effect, a county continues to be subject to the same purchasing law that applies to the county on January 1, 1985.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment - Robnett

Amend **C.S.S.B. 802**, SECTION 2, Section 2(b), line 18 by deleting "insurance or".

The amendments were read.

Senator Williams moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 806 WITH HOUSE AMENDMENT

Senator Brooks called **S.B. 806** 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 - J. Harris

Amend **S.B. 806** in SECTION 2, by striking the word "six" on line 7 and substituting the word "ten", and on line 15 by striking the words "120 days" and substituting "one year".

The amendment was read.

Senator Brooks moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 809 WITH HOUSE AMENDMENT

Senator Traeger called **S.B. 809** 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 - Kuempel

Substitute the following for **S.B. 809**:

A BILL TO BE ENTITLED
AN ACT

relating to the requirements that an organization must meet to qualify as a charitable organization exempt from property taxation; amending Subsection (c), Section 11.18, Tax Code, as amended.

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

SECTION 1. Subsection (c), Section 11.18, Tax Code, is amended to read as follows:

"(c) To qualify as a charitable organization for the purposes of this section, an organization (whether operated by an individual, as a corporation, or as an association) must:

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

"(A) providing medical care without regard to the beneficiaries' ability to pay;

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

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

"(D) preserving a historical landmark or site;

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

"(F) promoting or providing humane treatment of animals;

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

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

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

"(J) preserving or conserving wildlife;

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

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

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

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

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

"(2) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain and, if the organization performs one or more of the charitable functions specified by [~~Paragraph (C), (D), (E), (F), (G), (J), (K), (M), (N) of~~] Subdivision (1) of this subsection other than a function specified in Paragraph (A), (B), (H), (I), or (L), be organized as a nonprofit corporation as defined by the Texas Non-Profit Corporation Act; [~~and~~]

"(3) by charter, bylaw, or other regulation adopted by the organization to govern its affairs:

"(A) pledge its assets for use in performing the organization's charitable functions; and

"(B) direct that on discontinuance of the organization by dissolution or otherwise:

"(i) the assets are to be transferred to this state or to an educational, religious, charitable, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1954, as amended; or

"(ii) if required for the organization to qualify as a tax-exempt organization under Section 501(c)(12), Internal Revenue Code of 1954, as amended, the assets are to be transferred directly to the organization's members, each of whom, by application for an acceptance of membership in the organization, has agreed to immediately transfer those assets to this state or to an educational, religious, charitable, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1954, as amended, as designated in the bylaws, charter, or regulation adopted by the organization; and

(4) if the organization performs a charitable function specified by Paragraph O of Subdivision (1) of this subsection,

(A) be affiliated with a state or national organization that authorizes, approves, or sanctions volunteer charitable fundraising organizations;

(B) qualify for exemption under Section 501(c)(3), Internal Revenue Code of 1954, as amended;

(C) be governed by a volunteer board of directors; and

(D) distribute contributions to at least five other associations to be used for general charitable purposes, with all recipients meeting the following criteria:

(i) be governed by a volunteer board of directors;

(ii) qualify for exemption under Section 501(c)(3), Internal Revenue Code of 1954, as amended;

(iii) receive a majority of annual revenue from private or corporate charitable gifts and government agencies; and

(iv) provide services without regard to the ability of persons receiving the services to pay for the services.

SECTION 2. This Act takes effect January 1, 1986.

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.

Senator Traeger moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 830 WITH HOUSE AMENDMENTS

Senator Traeger called **S.B. 830** 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 - Messer

Substitute the following for **S.B. 830**:

A BILL TO BE ENTITLED
AN ACT

relating to the validation of the adoption of a charter, incorporation proceedings, elections, annexations, issuance of municipal airport notes and deeds of trust, and subsequent governmental proceedings of municipalities.

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

SECTION 1. "Municipality" means an incorporated town, village, or city, including a home-rule city.

SECTION 2. This Act applies to any incorporated city, town, or village operating under general law or under a home-rule charter.

SECTION 3. (a) All governmental acts and proceedings of a municipality covered by this Act regarding the adoption of a home-rule charter are validated as of the dates on which they occurred.

(b) All governmental acts and proceedings of the municipality since adoption or attempted adoption of the charter of such city are validated as of the dates on which they occurred.

SECTION 4. (a) The incorporation proceedings of all municipalities in this state that incorporated or attempted to be incorporated under the General Laws of this state, and that have functioned or attempted to function as incorporated municipalities since the date of incorporation or attempted incorporation, are validated as of the date of incorporation or attempted incorporation, and the incorporation of such municipalities may not be held invalid because the election proceedings or incorporation proceedings were not performed in accordance with law.

(b) All governmental proceedings performed by the governing bodies of all municipalities and their officer since the incorporation or attempted incorporation of such municipalities are validated as of the date of the proceedings, including extensions or attempted extensions of extra territorial jurisdiction undertaken as the request of owners of territory.

SECTION 5. (a) The governmental acts and proceedings of a municipality relating to the annexation or attempted annexation of adjacent territory by the municipalitybefore February 1, 1985, are validated as of the dates they occurred, and the boundaries fixed by such annexations or attempted annexations are validated. The acts and proceedings of a municipality may not be held invalid because they were not performed in accordance with the procedural requirements or other requirements of the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes) or another law, and the governmental acts and proceedings of a municipality occuring after an annexation but before the effective date of this Act may not be held invalid on the ground that the annexation, in the absence of this Act, was invalid.

(b) This section does not validate governmental acts or proceedings relating to a municipality's annexation or attempted annexation of:

(1) territory in the extraterritorial jurisdiction of another municipality without the consent of that municipality in violation of the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), unless the annexation was undertaken at the request of landowners in such territory in order to obtain water or sewer services; or

(2) an area extending from the coastline into the Gulf of Mexico.

SECTION 6. All governmental acts and proceedings of municipalities and municipal airport boards occurring before the effective date of this Act and relating to the authorization and issuance of notes and deeds of trust for municipal airport improvements, including the adoption of any ordinances or resolutions authorizing a note or deed of trust, are validated as of the dates they occurred. The Acts and proceedings may not be held invalid because they were not performed in accordance with law.

SECTION 7. This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid ;by a final judgment of a court of competent jurisdiction.

SECTION 8. 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.

Floor Amendment - Geistweidt

Amend **C.S.S.B. 830** on page 2, line 11, by deleting the words "February 1," and substituting "March 15".

The amendments were read.

Senator Traeger moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 840 WITH HOUSE AMENDMENT

Senator Barrientos called **S.B. 840** 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 - Delco

Amend **S.B. 840** by Barrientos, page 2, line 24 by changing the word "may" to "shall".

The amendment was read.

Senator Barrientos moved to concur in the House amendment.

The motion prevailed.

GUEST PRESENTED

Senator Truan was recognized and presented Mr. Robert G. "Bob" Cherry, retiring Secretary to the Board of Regents, Texas A&M University.

Mr. Cherry was warmly welcomed by the Senate and presented an enrolled copy of **S.R. 541**, adopted yesterday by the Senate.

Mr. Cherry addressed the Senate, expressing his appreciation for the years of friendship.

SENATE BILL 869 WITH HOUSE AMENDMENTS

Senator Krier called **S.B. 869** 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 - Adkisson

Amend **S.B. 869** in the following manner:

(1) On page 4, line 24, insert the following after line 24:
"(d) Each law enforcement officer shall accept a certified copy of a protective order as proof of the validity of the order and it is presumed the order remains valid unless the order contains a termination date or is more than one year old from its execution date."; and

(2) On page 6, lines 6 through 9, delete all of subsection (c).

Floor Amendment - Danburg

Amend **S.B. 869**, First Printing, by renumbering Sections 4 and 5 on page 7 as Sections 5 and 6 and by adding a new Section 4 to read as follows:

Section 4: Section 71.01(b)(3), Family Code, is amended to read as follows:
(3) "Family" includes individuals related by consanguinity or affinity, individuals who are former spouses of each other, individuals who are the biological parents of the same child, without regard to marriage or legitimacy, and a foster child and foster parent, whether or not those individuals reside together.

The amendments were read.

Senator Krier moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 903 WITH HOUSE AMENDMENTS

Senator Brown called **S.B. 903** 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.

Floor Amendment No. 1 - Robnett

Amend **S.B. 903** by deleting the words "Registration of" from line 12, page 10 and delete lines 13, 14 and 15 page 10.

Floor Amendment No. 2 - Robnett

Amend **S.B. 903** by adding a period at the end of line 23 on page 9 in place of the comma and delete lines 24, 25 and 26 page 9 and delete the word "jurisdiction" in line 1 page 10.

The amendments were read.

Senator Brown moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 908 WITH HOUSE AMENDMENT

Senator Jones called **S.B. 908** 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.

Amend **S.B. 908** by changing the current Section 5 to Section 6, changing the current Section 6 to Section 7, and adding the following as Section 5:

SECTION 5. Section 23.01(b), Tax Code, is amended to read as follows:

(b) The market value of property shall be determined by the application of generally accepted appraisal techniques, and the same or similar appraisal techniques shall be used in appraising the same or similar kinds of property. However, each property shall be appraised based upon the individual characteristics that affect the property's market value.

The amendment was read.

Senator Jones moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 940 WITH HOUSE AMENDMENTS

Senator Washington called **S.B. 940** 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.

Floor Amendment No. 1 - Eckels

Amend **S.B. 940**, on page 2, line 10, after the word impairments, by adding the following: Alzheimer's Disease, Pre-senile Demetia,

Floor Amendment No. 2 - Eckels

Amend **S.B. 940**, on page 3, line 5, after the word "use." by adding the following: However, the residents of such home may not keep, on the premise of the home or on the public rights-of-way adjacent to the home, more than one motor vehicle per bedroom for the use of the residents of the home unless otherwise provided by city ordinance.

The amendments were read.

Senator Washington moved to concur in the House amendments.

The motion prevailed.

RECORD OF VOTES

Senators Brown, Glasgow, Howard and Sharp asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

SENATE BILL 955 WITH HOUSE AMENDMENTS

Senator Howard called **S.B. 955** 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.

Floor Amendment No. 1 - Schlueter

Amend **S.B. 955** by inserting appropriately numbered sections to read as follows:

SECTION . Section 112.058, Tax Code, is amended to read as follows:

"Section 112.058. SUBMISSION OF PROTEST PAYMENTS TO TREASURER. (a) Except as provided in Subsections (b) and (c) of this section, payments made under protest are to be handled as follows:

"(1) An officer who receives payments made under protest as required by Section 112.051 of this code shall each day send to the treasurer the payments, a list of the persons making the payments, and a written statement that the payments were made under protest.

"(2) [~~(b)~~] The comptroller shall issue a deposit receipt to each state department for the daily total of payments received from each department.

"(3) [~~(c)~~] The treasurer shall make and keep a suspense cash book in which deposit receipts are entered.

"(4) [~~(d)~~] The treasurer shall, immediately on receipt, place the payments in state depositories bearing interest in the same manner that other funds are required to be placed in state depositories at interest.

"(5) [~~(e)~~] The treasurer shall allocate the interest earned on these funds and credit the amount allocated to the suspense account until the status of the funds is finally determined.

"(b) A protest payment relating to each tax imposed by Articles 1.14-1, 1.14-2, 4.10, 4.11, 14.42, 21.46, and 23.08, Insurance Code, or by Section 28, Article 8306, Revised Statutes, or by Section 33, Texas Health Maintenance Organization Act (Article 20A-33, Vernon's Texas Insurance Code), shall be handled as follows:

"(6) The State Board of Insurance shall keep detailed records of protest payments relating to the tax imposed by Articles 1.14-1, 1.14-2, 4.10, 4.11, 14.42, 21.46, and 23.08, Insurance Code, or by Section 28, Article 8306, Revised Statutes, or by Section 33, Texas Health Maintenance Organization Act (Article 20A-33, Vernon's Texas Insurance Code).

"(c) Protest payments relating to the tax imposed by Articles 5.12, 5.24, 5.49, 5.68, 5.91, and 9.46 of the Insurance Code shall be handled as follows:

"(1) All protest payments that are made pursuant to assessments for the calendar years 1985 and 1986 shall be immediately deposited in the State Treasury to the credit of the State Board of Insurance operating fund.

"(2) All protest payments that are made pursuant to assessments for a calendar year after 1986 are governed by Subsection (a) of this section.".

"(3) The State Board of Insurance shall keep detailed records of protest payments relating to the tax imposed by Articles 5.12, 5.24, 5.49, 5.68, 5.91, and 9.46, Insurance Code.

"SECTION . Subsection (c) of Section 112.060, Tax Code, is amended to read as follows:

(c) Each tax refund warrant shall be drawn against the suspense account. If there are not sufficient funds in the suspense account to pay a refund required to be paid under Subsection (a) of this Section, then the warrant shall be drawn against the general revenue fund or other funds from which refund appropriations may be made."

"(1) All protest payments that were made pursuant to requirements for the quarterly prepayment of premium tax due on March 1, 1985, and that are presently in the suspense account or that are subsequently paid shall be immediately transferred to the General Revenue Fund.

"(2) All protest payments that are made pursuant to requirements for the quarterly prepayment of premium tax due on May 15, 1985, which have been placed in the suspense account or that are subsequently paid shall be transferred to the General Revenue Fund.

"(3) All protest payments made pursuant to requirements for the quarterly prepayment of premium tax due on August 15, 1985, which have been placed in the suspense account or that are subsequently paid shall be transferred to the General Revenue Fund.

"(4) All protest payments made pursuant to requirements for the quarterly prepayment of premium tax or pursuant to the requirements for annual premium tax that become due after August 15, 1985, but before November 15, 1987, shall not be placed in the suspense account, but shall immediately be deposited in the General Revenue Fund.

"(5) All protest payments made pursuant to requirements for the quarterly prepayment of premium tax or pursuant to the requirement for annual premium tax that become due on or after November 15, 1987, are governed by Subsection (a) of this section.".

Floor Amendment No. 2 - Gavin

Amend **S.B. 955** on Third Reading by striking the Second Reading amendment.

The amendments were read.

Senator Howard moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 957 WITH HOUSE AMENDMENT

Senator Howard called **S.B. 957** 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.

Floor Amendment - McKinney

Amend **S.B. 957** on page 6, line 9 and 10, by striking the words "a special account in" and by striking the words "and may be used by the department only to administer this Act.".

The amendment was read.

Senator Howard moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 966 WITH HOUSE AMENDMENTS

Senator Sims called **S.B. 966** 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.

Floor Amendment No. 1 - Willy

Amend **S.B. 966**, SECTION 1, on Page 2 by deleting from line 2 the words "has been given in person or by", and by deleting line 3 and substituting the following:

"has been given to the owner(s) of the road either in person or by registered mail to the address of the person as shown on the most recent ad valorem tax roll for the county."

Floor Amendment No. 2 - Willy

Amend **S.B. 966**, on Page 2 by striking SECTION 3 of bill and substituting the following:

"SECTION 3. This Act takes effect September 1, 1985."

The amendments were read.

(Senator Brooks in Chair)

Senator Sims moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 967 WITH HOUSE AMENDMENT

Senator Sims called **S.B. 967** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment - Geistweidt

Amend **S.B. 967** by renumbering Section 2 as Section 3 and inserting a new Section 2 to read as follows:

SECTION 2. Subsection C, Section 10, Municipal Annexation Act, as amended by Section 2, Chapter 842, Acts of the 67th Legislature, Regular Session, 1981 (Article 970a, Vernon's Texas Civil Statutes), is amended to read as follows:

C. In no event shall a service plan provide fewer services or a lower level of services in the area to be annexed than were in existence in that area at the time immediately preceding the annexation. However, it is not the intent or purpose of this Act to require that a uniform level of services be provided to all areas of the city where differing characteristics of topography, land utilization, and population density are considered to be [~~as a~~] sufficient bases [~~bases~~] for providing differing service levels. Nothing in this Act shall be construed to authorize annexation for limited purposes other than ad valorem taxation.

The amendment was read.

Senator Sims 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 Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 967** 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 Sims, Chairman; Brown, Caperton, Leedom and Sharp.

SENATE BILL 979 WITH HOUSE AMENDMENTS

Senator Jones called **S.B. 979** 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 - Gavin

Substitute the following for **S.B. 979**:

A BILL TO BE ENTITLED
AN ACT

relating to the deliberations of governmental bodies.

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

SECTION 1. Section 2, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. (a) Except as otherwise provided in this Act or specifically permitted in the Constitution, every regular, special, or called meeting or session of every governmental body shall be open to the public; and no closed or executive meeting or session of any governmental body for any of the purposes for which closed or executive meetings or sessions are hereinafter authorized shall be held unless the governmental body has first been convened in open meeting or session for which notice has been given as hereinafter provided and during which open meeting or session the presiding officer has publicly announced that a closed or executive meeting or session will be held and identified the section or sections under this Act authorizing the holding of such closed or executive session.

(b) In this Act, the Legislature is exercising its rule-making powers to prohibit secret meetings of the Legislature, its committees, or any other bodies associated with the Legislature, except as otherwise specifically permitted by the Constitution.

(c) A governmental body may exclude any witness or witnesses from a hearing during examination of another witness in the matter being investigated.

(d) Nothing in this Act shall be construed to affect the deliberation of grand juries.

(e) Private consultations between a governmental body and its attorney are not permitted except in those instances in which the body seeks the attorney's advice with respect to pending or contemplated litigation, settlement offers, and matters where the duty of a public body's counsel to his client, pursuant to the Code of Professional Responsibility of the State Bar of Texas, clearly conflicts with this Act.

(f) The public may be excluded from that portion of a meeting during which a discussion is had with respect to the purchase, exchange, lease, or value of real property, negotiated contracts for prospective gifts or donations to the state or the governmental body, when such discussion would have a detrimental effect on the negotiating position of the governmental body as between such body and a third person, firm or corporation.

(g) Nothing in this Act shall be construed to require governmental bodies to hold meetings open to the public in cases involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear complaints or charges against such officer or employee, unless such officer or employee requests a public hearing.

(h) Nothing in this Act shall be construed to require school boards to hold meetings open to the public in cases involving discipline of public school children unless an open hearing is requested in writing by a parent or guardian of the child.

(i) All or any part of the proceedings in any public meeting of any governmental body as defined hereinabove may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction.

(j) Nothing in this Act shall be construed to require governing bodies to deliberate in open meetings regarding the deployment, or specific occasions for implementation, of security personnel or devices.

(k) Nothing in this Act shall be construed to allow a closed meeting of a governing body where such closed meeting is prohibited, or where open meetings are required, by charter.

(l) Whenever any deliberations or any portion of a meeting are closed to the public as permitted by this Act, no final action, decision, or vote with regard to any matter considered in the closed meeting shall be made except in a meeting which is open to the public and in compliance with the requirements of Section 3A of this Act.

(m) Nothing in this Act shall be construed to require school boards operating under consultation agreements provided for by Section 13.901 if the Texas Education Code to deliberate in open meetings regarding the standards, guidelines, terms, or conditions it will follow or instruct its representatives to follow, in consultation with representatives of employee groups.

(n) Nothing in this Act shall be construed to require an agency wholly financed by Federal funds to deliberate in open meetings.

(o) Nothing in this Act shall be construed to require medical boards or medical committees to hold meetings open to the public in cases where the individual medical and psychiatric records of an applicant for a disability benefit from a public retirement system are being considered.

(p) Nothing in this Act shall be construed to require that interviews or counseling sessions between the members of the Board of Pardons and Paroles and inmates of any facility of the Texas Department of Corrections be open to the public.

(q) The requirements of this Act shall not apply to a meeting of the State Board of Insurance in the discharge of responsibilities to regulate and maintain the solvency of those persons over which the agency has regulatory authority. In this regard, the State Board of Insurance may meet in closed meeting with any of its staff and/or the regulated person or representatives of the regulated person to deliberate and determine appropriate action to be taken with respect to the person's solvency.

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.

Floor Amendment - Gavin

Amend **C.S.S.B. 979**, by inserting a new Section 2 to read as follows, and renumbering Section 2 as Section 3:

SECTION 2. Amend Section 3. of Article 3.75 of the Texas Insurance Code, as amended, by deleting said Section, and substituting in lieu thereof the following:

Sec. 3. (a) A company may not deliver or issue for delivery in this state variable contracts unless after notice and hearing, the commissioner shall find that the company is qualified to issue, deliver, and use variable contracts in accordance with this article and the regulations issued thereunder. The commissioner shall issue an official order of authorization relating to the company's authority to issue, deliver, and use variable contracts in this state.

(b) In considering the condition or method of operation the commissioner shall consider among other things:

(1) the history and financial condition of the company;

(2) the character, responsibility, and fitness of the officers and directors of the company;

(3) the law and rules under which the company is authorized to do business in the state of domicile to issue variable contracts; and

(4) whether the condition or method of operation in connection with the issuance of these contracts will render its operation hazardous to the public or its policy holders in this state.

(c) For the purposes of subdivision (3) of subsection (b) of this section, the state of entry of a foreign company is its place of domicile.

(d) If a company is a subsidiary of an admitted life insurance company or affiliated with an admitted life insurance company through common management or ownership, the commissioner may after notice and hearing determine the company to have met the requirements of this section if either it or the parent or the affiliated company meet the requirements of this section.

(e) If a company, its parent or commonly controlled affiliate is an admitted life insurance company, the commission may, upon application by the company, waive the requirements for hearing provided in subsections (a) and (d) of this section if the commission shall determine that a hearing is not necessary to find the company to be qualified under this section.

SECTION 2. All laws and parts of laws in conflict herewith are superseded hereby and same shall be and are hereby repealed.

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 Jones moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 980 WITH HOUSE AMENDMENT

Senator Harris called **S.B. 980** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment - Hury

Amend **S.B. 980** by adding a new Section 11 and renumbering subsequent sections appropriately:

"Section 12.117 (a) If a person is convicted in a justice court for violating a provision of this code or a proclamation or regulation adopted under this code that provides enhanced penalties for subsequent convictions, the court on request shall submit to the department an affidavit certifying the conviction. Along with such affidavit the court shall also compile and send to the department a copy of the defendant's signature, fingerprint, and driver's license number and copies of any photograph, picture, description, or measurement of the defendant made by any law enforcement agency in connection with the offense.

(b) A certified copy of such affidavit and documents pursuant to subsection (a) of this section is admissible as evidence in a criminal proceeding to prove that a particular person was convicted of the offense to which the documents pertain if the court finds that 15 days before trial, the party against whom the evidence is offered was provided a copy of the document offered as evidence."

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 30 WITH HOUSE AMENDMENTS

Senator Parmer called **S.B. 30** 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 - Williamson

Substitute the following for **S.B. 30**:

A BILL TO BE ENTITLED
AN ACT

relating to the elements of the offense of theft, evidence admissible in the prosecution of the offense, character of stolen property, and defenses that are unavailable to the defendant in the prosecution of the offense; amending Section 31.03, Penal Code, as amended.

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

SECTION 1. Section 31.03, Penal Code, as amended, is amended to read as follows:

"Section 31.03. THEFT. (a) A person commits an offense if he unlawfully appropriates property with intent to deprive the owner of property.

"(b) Appropriation of property is unlawful if:

"(1) it is without the owner's effective consent; [~~or~~]

"(2) the property is stolen and the actor appropriates the property knowing it was stolen by another; or

"(3) property in the custody of any law enforcement agency was explicity represented by any law enforcement agent to the actor as being stolen and the actor appropriates the property believing it was stolen by another.

"(c) For purposes of Subsection (b) [~~(2)~~] of this section:

"(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

"(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

"(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with him, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Article 6687-1, Vernon's Texas Civil Statutes) that the property has been previously stolen from another if the actor pays for or loans against the property $25 or more (or consideration of equivalent value) and the actor knowingly or recklessly:

"(i) fails to record the name, address, and physical description or identification number of the seller or pledgor;

"(ii) fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

"(iii) fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements; [~~:~~]

"(4) for the purposes of Subparagraph (i) above, 'identification number' means driver's license number, military identification number,

identification certificate, or other official number capable of identifying an individual;

"(5) stolen property does not lose its character as stolen when recovered by any law enforcement agency.

"(d) It is not a defense to prosecution under this section that:

"(1) the offense occurred as a result of a deception or strategy on the part of a law enforcement agency, including the use of an undercover operative or peace officer;

"(2) the actor was provided by a law enforcement agency with a facility in which to commit the offense or an opportunity to engage in conduct constituting the offense;

"(3) the actor was solicited to commit the offense by a peace officer, and the solicitation was of a type that would encourage a person predisposed to commit the offense to actually commit the offense, but would not encourage a person not predisposed to commit the offense to actually commit the offense.

"(e) Except as provided by Subsection (f) [~~(c)~~] of this section, an offense under this section is:

"(1) a Class C misdemeanor if the value of the property stolen is less than $20;

"(2) a Class B misdemeanor if:

"(A) the value of the property stolen is $20 or more but less than $200; or

"(B) the value of the property stolen is less than $20 and the defendant has previously been convicted of any grade of theft;

"(3) a Class A misdemeanor if the value of the property stolen is $200 or more but less than $750;

"(4) a felony of the third degree if:

"(A) the value of the property stolen is $750 or more but less than $20,000, or the property is one or more head of cattle, horses, sheep, swine, or goats or any part thereof under the value of $20,000;

"(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave; or

"(C) the value of the property stolen is less than $750 and the defendant has been previously convicted two or more times of any grade of theft; or

"(5) a felony of the second degree if:

"(A) regardless of the value, the property is:

"(i) combustible hydrocarbon natural or synthetic natural gas, or crude petroleum oil;

"(ii) equipment designed for use in exploration for or production of natural gas or crude petroleum oil; or

"(iii) equipment designed for use in remedial or diagnostic operations on gas or crude petroleum oil wells;

"(B) the value of the property stolen is $20,000 or more; or

"(C) regardless of the value, the property was unlawfully appropriated or attempted to be unlawfully appropriated by threat to commit a felony offense against the person or property of the person threatened or another or to withhold information about the location or purported location of a bomb, poison, or other harmful object that threatens to harm the person or property of the person threatened or another person.

"(f) [~~(e)~~] An offense described for purposes of punishment by Subsection (e) [~~(d)~~] of this section is increased to the next higher category of offense if it is shown on the trial of the offense that:

"(1) the actor was a public servant at the time of the offense; and

"(2) the property appropriated came into the actor's custody, possession, or control by virtue of his status as a public servant."

SECTION 2. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

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

SECTION 3. This Act takes effect September 1, 1985.

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.

Floor Amendment - Toomey

Amend **C.S.S.B. 30** as follows:

On Page 3, line 12 insert the word "or" after the semicolon.

The amendments were read.

Senator Parmer moved to concur in the House amendments.

The motion prevailed.

RECORD OF VOTES

Senators Glasgow and Washington asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

SENATE BILL 911 WITH HOUSE AMENDMENTS

Senator Farabee called **S.B. 911** 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 - Uher

Amend **S.B. 911** on page 13, between lines 3 and 4, by inserting a new Section 7 to read as follows and renumbering the remaining sections accordingly:

SECTION 7. Section 135.02, Education Code, is amended by amending Subsections (a) and (c) and adding Subsection (e) to read as follows:

(a) The Texas State Technical Institute shall be located on only five [~~four~~] campuses, with one each in McLennan, Cameron, Potter, Hidalgo, and Nolan counties.

(c) The board may accept or acquire by purchase in the name of the State of Texas land and facilities in Cameron County, Potter County, Hidalgo County, and Nolan County, subject to the approval of the governor.

(e) The Hidalgo County campus of the Texas State Technical Institute shall be administered by the Texas State Technical Institute administration in Cameron County.

Floor Amendment No. 1 - Uher

Amend **S.B. 911** by striking Committee Amendment 1 in its entirety and substituting the following in lieu thereof:

"Amend SECTION 135.06 subsection (e), Texas Education Code, by adding the following to subsection (e):
No existing extension program shall be discontinued as long as a need for the program can be demonstrated to exist in the area being served.

Floor Amendment No. 2 - Denton

Amend **S.B. 911** page 11 line 10 by adding after "board." the following: ", and one member of the Technical-Vocational Education Advisory Council, appointed by the chairman of the Council."

Floor Amendment No. 3 - Denton

Amend **S.B. 911** on page 16, between lines 2 and 3, by inserting a new Section 12 to read as follows and renumbering the remaining section of the bill accordingly:

SECTION 12. The Select Committee on Higher Education, established by **H.C.R. 105**, Acts of the 69th Legislature, Regular Session, may include in its comprehensive study of higher education in Texas a study of issues relating to postsecondary technical-vocational education.

Floor Amendment No. 4 - Rudd

Amend **S.B. 911** on Third Reading as follows:

On page 16, lines 1-2 (House Committee Report), strike "for public junior colleges" in amended Section 135.52, Education Code.

Amend **S.B. 911** on Third Reading by amending Second Reading Amendment No. 2 (amending Section 135.06(e), Education Code) by striking "extension program" and substituting "extension program at Texas State Technical Institute".

The amendments were read.

Senator Farabee moved to concur in the House amendments.

The motion prevailed.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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.C.R. 181, Creating the Joint Special Committee on Insurance Tax Laws.

H.C.R. 257, BE IT RESOLVED, by the House of Representatives of the State of Texas, that House Rule 14, Chapter C, Section 9(a) and (b), be suspended in part, as provided by House Rule 14, Chapter C, Section 9(f), to enable consideration of, and action on, the following specific matters which may be contained in the Conference Committee Report on **H.B. 20**.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT
SENATE BILL 440

Senator Traeger submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 440** 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.

TRAEGER	SUTTON
SHARP	LEE
KRIER	TEJEDA
SIMS	MORALES
KOTHMANN	CAIN
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the governance, territory, and powers of a metropolitan rapid transit authority.

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

SECTION 1. Subsections (1) and (q), Section 6, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), are amended to read as follows:

(1) The authority may make contracts, leases and agreements with, and accept grants and loans from, the United States of America, its departments and agencies, the State of Texas, its agencies, counties, municipalities and political subdivisions, [~~and~~] public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons, and may generally perform all acts necessary for the full exercise of the powers vested in it. The authority may acquire rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement. Any revenue bond indenture may provide limitations upon the exercise of the powers stated in this section and such limitations shall apply so long as any of the revenue bonds issued pursuant to such indenture are outstanding and unpaid.

(q) The authority may contract with any city, county, or other political subdivision for the authority to provide public transportation services to any area outside the boundaries of the authority on such terms and conditions as may be agreed to by the parties. Nothing in this subsection or in Subsection (i) or (l) of this section pertaining to powers of the authority creates or confers any governmental immunity or limitation of liability on any entity or person other than the authority.

SECTION 2. Subsection (b), Section 6A, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The governing body of any incorporated city or town located in whole or in part within either a county in which any portion of the authority territory is situated or a county adjacent to a county in which any portion of the authority territory is situated may hold an election on the question of whether the city or town

shall be annexed to the authority. If a majority of the qualified voters in the city or town votes for annexation, the governing body shall certify the results of the election to the board of the authority, and the city or town shall become a part of the authority, except as provided in Subsection (f) of this section.

SECTION 3. Subsections (c) and (e), Section 6B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) If 75 percent or more of the population of the county described in Subsection (a) of this section outside the corporate limits of the principal city resides within the limits of the authority, the board consists of 11 members, including the original five members or their successors, two additional members appointed jointly by the mayors of all incorporated municipalities except the principal city located within the authority, three other additional members appointed by the commissioners court of the county, and one member, who serves as chairman, who is appointed by a majority of the board. If a member of the board is appointed under this subsection to serve as chairman, the member is considered to have vacated the member's other position on the board, and a successor shall be appointed as provided by Subsection (f) of this section. A person appointed under this subsection may serve two consecutive terms as chairman, in addition to any service the person served on the board before the person's appointment as chairman [~~the other ten members~~].

(e) The terms of office of any members of the board appointed after the confirmation and tax election and after the effective date of this Act are four 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 effective date of this Act, if an even number is to be appointed by an agency, and a bare majority of the first members appointed by the agency, if an odd number greater than one is to be appointed by an agency, are two years. 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. Except as provided by Subsection (c) of this section, a person [~~No member of the board~~] may not serve more than two consecutive four-year terms as a member of the board.

SECTION 4. Subsection (a), Section 14, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Contracts for more than $10,000 [~~$5,000~~] 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 and providing for the waiver of this requirement in the event of emergency, in the event the needed materials are available from only one source, in the event that, except for construction of improvements on real property, in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement, or in the event that, except for construction of improvements on real property, after solicitation it is ascertained that there will be only one bidder. This subsection does not apply to personal and professional services or to the acquisition of existing transit systems.

SECTION 5. The change made by this Act in Subsection (a), Section 14, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), applies to contracts made on or after the effective date of this Act. A contract made before that date is subject to the law in effect when the contract was made, and the former law is continued in effect for that purpose.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

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

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1743

Senator Uribe submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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 **H.B. 1743** 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.

URIBE	EMMETT
SANTIESTEBAN	PERRY
SIMS	HALL
MONTFORD	McWILLIAMS
BROWN	WILLIAMS
On the part of the Senate	On the part of the House

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

CONFERENCE COMMITTEE REPORT
SENATE BILL 192

Senator Sharp submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 192** 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.

SHARP	TALLAS
WASHINGTON	KELLER
GLASGOW	LANEY
CAPERTON	JOHNSON
FARABEE	SHORT
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the conveyance of certain state-owned real property by the Texas Board of Corrections and to disposition of the proceeds.

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

SECTION 1. CONVEYANCE OF PROPERTY. (a) Except as otherwise provided in this section, the chairman of the Texas Board of Corrections may convey on behalf of the Texas Board of Corrections and this state all of the interest of the state except mineral rights in the real property described in Sections 2 and 3 of this Act. The board may combine or divide the tracts as it considers appropriate to make a sale of any part or all of the land.

(b) The Texas Board of Corrections may sell the property only after advertising the sale in at least two issues of a newspaper of general circulation in Bexar, Dallas, El Paso, Fort Bend, Harris, Tarrant, and Travis counties, and in a business-oriented newspaper of national circulation that is published at least five days a week, such as The Wall Street Journal. The first advertisement must be published at least 30 days before the date the property is sold. Each advertisement shall describe the land to be sold and call for sealed bids on the property. The board shall either sell the property to the highest bidder or reject all bids and reoffer the property for sale. The board may not sell the property for less than the current appraised value.

(c) If Sections 31.158 and 31.159, Natural Resources Code, are added by Senate Bill 43, Acts of the 69th Legislature, Regular Session, 1985, the property shall be conveyed in accordance with those sections. However, notwithstanding the provisions of Senate Bill 43, Acts of the 69th Legislature, Regular Session, 1985, the asset management division of the General Land Office may not take possession of the property authorized for sale by this Act without the approval of the Texas Board of Corrections.

SECTION 2. DESCRIPTION OF PROPERTY. The real property to be conveyed under this Act consists of 19 tracts of land amounting to 1,278.9 acres, more or less, out of the Texas Department of Corrections Central Unit, 2,023.4 acres, more or less, out of the Texas Department of Corrections Jester Unit, 22.097 acres, more or less, located in Fort Bend County, Texas, and 296.82 acres, more or less, in Harris County, which are more particularly described as follows:

Tract 1: Being 76.3 acres more or less of the Central State Farm and located in the A. Hodge League, Fort Bend County, Texas. Said tract is bounded on the north by U.S. Highway 90A, and on the west by Texas Highway 6.

Tract 2: Being 201.6 acres more or less of the Central State Farm and located in the A. Hodge League, Fort Bend County, Texas. Said tract is bounded on the west by Texas Highway 6, and on the south by Oyster Creek.

Tract 3: Being 226.4 acres more or less of the Central State Farm and located in the A. Hodge League, Fort Bend County, Texas. Said tract is bounded on the north by Voss Road, on the west by Texas Highway 6, and on the south by Oyster Creek.

Tract 4a: Being 70 acres more or less of the Central State Farm and located in the A. Hodge League, Fort Bend County, Texas. Said tract being bounded on the north by U.S. Highway 59.

Tract 7: Being 129.7 acres more or less of the Central State Farm and located in the A. Hodge League, Fort Bend County, Texas. Said tract is bounded on the north by Tract 3, and on the west by Texas Highway 6.

Tract 8a: Being 65 acres more or less of the Central State Farm and located in the A. Hodge League, Fort Bend County, Texas. Said tract is bounded on the south by U.S. Highway 59 and on the west by Flanagan Road.

Tracts 8b and 8c: Being 191.1 acres more or less of the Central State Farm and located in the A. Hodge League, Fort Bend County, Texas. Said tracts are bounded on the south by Tract 8a and on the west by Flanagan Road and on the north by Tract 8d.

Tract 8d: Being 100 acres more or less of the Central State Farm and located in the A. Hodge League, Fort Bend County, Texas. Said tract is bounded on the south by Tract 8c and on the west by Flanagan Road and on the north by Tract 9d.

Tract 9d: Being 73.8 acres more or less of the Central State Farm and located in the A. Hodge League, Fort Bend County, Texas. Said tract is bounded on the south by Tract 8d and on the west by Flanagan Road and on the north by Tracts 9a, 9b, and 9c.

Tracts 9a, 9b, and 9c: Being 72.2 acres more or less of the Central State Farm and located in the A. Hodge League, Fort Bend County, Texas. Said tracts are bounded on the north by Texas Highway 6 and on the west by Flanagan Road and on the south by Tract 9d.

Tract 14: Being 72.8 acres more or less of the Central State Farm and located in the A. Hodge League. Said tract is bounded on the west by Tract 15b and on the east by Texas Highway 6.

Tract 1j: Being 1,087.6 acres more or less of the Jester State Farm and located in the Andrew M. Clopper Survey and the Jesse J. Cartwright League, Fort Bend County, Texas. Said tract is bounded on the north by Madden Road and on the east by F.M. 1464 and on the west by a state prison road which is the common boundary for Tracts 1j and 2j.

Tract 2j: Being 518 acres more or less of the Jester State Farm and located in the Andrew M. Clopper Survey and the Jesse H. Cartwright League, Fort Bend County, Texas. Said tract is bounded partially on the north by Madden Road, on the west by Harlem Road and on the east by Tract 1j.

Tract 3j: Being 417.8 acres more or less of the Jester State Farm and located in the William Morton 1-1/2 League Grant, Fort Bend County, Texas. Said tract is bounded on the north by Morton Road and on the east by Harlem Road.

Tract, Blue Ridge: Being 296.82 acres more or less and located in the C. W. Adams Survey, A-101 Harris County, Texas. Said tract is partially bounded on the west by Hillcroft Street and Blue Ridge Road and on the north by Sims Bayou.

Tract, Friedenhas: Being 22.097 acres more or less and located in the E. Friedenhas Survey A-513, Fort Bend County, Texas. Said tract is bounded on the south by F.M. 2234 (McHard Road).

SECTION 3. AUTHORIZATION OF ADDITIONAL CONVEYANCE OF PROPERTY. The Texas Department of Corrections with the assistance of the General Land Office shall develop a plan for the orderly conveyance of the entire Texas Department of Corrections Central Unit. The plan shall consider the economic interests of the state and provide for an orderly disposition and relocation of the operations of the Central Unit. In addition to the tracts described in Section 2 of this Act, the Texas Board of Corrections is authorized to convey any part or all of the remaining acreage of the Central Unit if it is determined that the acreage may be sold without undue disruption of the Texas Department of Corrections operations. Sales of additional acreage under this section must conform to the provisions for sale included in Section 1 of this Act.

SECTION 4. APPRAISAL AND PLAN. The property authorized to be sold by this Act may be sold only after an appraisal and plan for disposition has been

prepared by the General Land Office and has been accepted by the Texas Board of Corrections.

SECTION 5. DISPOSITION OF PROCEEDS. (a) Except as otherwise provided in this section, proceeds from a conveyance under this Act shall be deposited in the General Revenue Fund of the state for appropriation only to the Texas Department of Corrections for use in acquiring other land or for the construction or improvement of facilities of the department.

(b) If Section 31.158, Natural Resources Code, is added by Senate Bill 43, Acts of the 69th Legislature, Regular Session, 1985, proceeds from a conveyance under this Act shall be deposited in the capital trust fund. In such event, it is the intent of the legislature that proceeds from the conveyance authorized by this Act, not to exceed $125,000,000 as appropriated by House Bill 20, Acts of the 69th Legislature, Regular Session, are set aside to finance acquisition of land necessary for the Texas Department of Corrections or necessary construction, repairs, or renovations of facilities of the Texas Department of Corrections.

SECTION 6. ENACTMENT OF OTHER LEGISLATION. If Senate Bill 43, Acts of the 69th Legislature, Regular Session, 1985, is enacted and if it will take effect after the effective date of this Act, the proceeds from a conveyance made under this Act and made before the effective date of Senate Bill 43 shall be deposited in a special fund in the State Treasury and shall be transferred to the capital trust fund on the effective date of Senate Bill 43.

SECTION 7. 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 was filed with the Secretary of the Senate.

SENATE BILL 863 WITH HOUSE AMENDMENT

Senator Sarpalius called **S.B. 863** from the President's table for consideration of the House amendment to the bill.

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

Committee Amendment - Uher

Substitute the following for **S.B. 863**:

A BILL TO BE ENTITLED
AN ACT

relating to inclusion of certain projects for maintenance and enhancement of water quality under state water assistance and water development programs.

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

SECTION 1. Subdivision (6), Section 15.001, Water Code, is amended to read as follows:

(6) "Project" means:

(A) an undertaking or work to conserve, convey, and develop surface or subsurface water resources of the state, to provide for the maintenance and enhancement of the quality of the water of the state, to provide flood control and drainage, and to carry out other purposes defined by board rules; or

(B) an undertaking or work outside the state to provide for the maintenance and enhancement of the quality of water by eliminating saline inflow through well pumping and deep well injection of brine.

SECTION 2. Subdivision (7), Section 16.001, Water Code, is amended to read as follows:

(7) "Project" means:

(A) an engineering undertaking or work to conserve and develop surface or subsurface water resources of the state, including the control, storage, and preservation of its storm water and floodwater and the water of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, and other water storage projects, including underground storage projects, filtration and water treatment plants including any system necessary to transport water from storage to points of distribution, or from storage to filtration and treatment plants, including facilities for transporting water therefrom to wholesale purchasers, by the acquisition, by purchase of rights in underground water, by the drilling of wells, or for any one or more of these purposes or methods; or

(B) an engineering undertaking or work outside the state to provide for the maintenance and enchancement of the quality of water by eliminating saline inflow through well pumping and deep well injection of brine.

SECTION 3. Subdivision (6), Section 17.001, Water Code, is amended to read as follows:

(6) "Project" means:

(A) an engineering undertaking or work to conserve and develop surface or subsurface water resources of the state, including the control, storage, and preservation of its storm water and floodwater and the water of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, and other water storage projects, including underground storage projects, filtration and water treatment plants, including any system necessary to transport water from storage to points of distribution or from storage to filtration and treatment plants, including facilities for transporting water therefrom to wholesale purchasers by the acquisition, by purchase of rights in underground water, by the drilling of wells, or for any one or more of these purposes or methods; or

(B) an engineering undertaking or work outside the state to provide for the maintenance and enhancement of the quality of water by eliminating saline inflow through well pumping and deep well injection of brine.

SECTION 4. This Act takes effect September 1, 1985.

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.

The amendment was read.

Senator Sarpalius moved to concur in the House amendment.

The motion prevailed.

HOUSE CONCURRENT RESOLUTION 257

The President laid before the Senate the following resolution:

H.C.R. 257, BE IT RESOLVED, by the House of Representatives of the State of Texas, that House Rule 14, Chapter C, Section 9(a) and (b), be suspended in part, as provided by House Rule 14, Chapter C, Section 9(f), to enable consideration of, and action on, certain specific matters which may be contained in the Conference Committee Report on **H.B. 20**.

The resolution was read.

On motion of Senator Jones and by unanimous consent, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT
SENATE BILL 1002

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 1002** 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.

HARRIS	WALLACE
HOWARD	SCHLUETER
LEEDOM	HARRIS
BLAKE	CAVAZOS
HENDERSON	DANBURG
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the powers, duties, and funding of certain state agencies and local governmental entities that perform functions related to the commemoration of the Texas sesquicentennial.

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

SECTION 1. Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), is amended by amending Section 2 to read as follows:

Sec. 2. (e) An ex officio member <u>or a member appointed by the speaker of the house of representatives or by the lieutenant governor</u> may designate a representative to serve in the member's absence. A designated representative must be an officer or employee of the member's agency or organization<u>, and for the executive committee may be another member of the board</u>. The designated representative has all the powers and duties of the ex officio <u>or legislative</u> member.

SECTION 2. Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes) is amended by adding Section 4(d) to read as follows:

<u>Sec. 4. (d) There shall be created from the membership of the commission an executive committee composed of 9 members: the chairman of the commission; two members designated by the governor from the governor's appointees; two members designated by the speaker of the house of representatives from the speaker's appointees; two members designated by the lieutenant governor from the lieutenant governor's appointees; the executive head of the Texas Tourist Development Agency; and the executive head of the Texas Commission on the Arts. Subject to disapproval by the commission, the executive committee may act on behalf of the commission for all purposes when the commission shall not be meeting, and shall have oversight and authority over all the activities of the commission and its employees in the full commission's absence.</u>

SECTION 3. Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), is amended by amending Section 7 and adding Section 7A to read as follows:

Sec. 7. DUTIES. The commission shall:

(1) encourage individuals, private organizations, and local governmental bodies to organize activities celebrating the state's sesquicentennial;

(2) help individuals, private organizations, and local governmental bodies that organize sesquicentennial activities to coordinate the activities;

(3) gather and disseminate information to the general public about sesquicentennial activities conducted in the state;

(4) develop standards for sesquicentennial activities organized by individuals, private organizations, and local governmental bodies and sanction activities that comply with the standards;

(5) invite national and international dignitaries to attend sesquicentennial activities conducted in the state;

(6) encourage persons living outside the state to attend sesquicentennial activities conducted in the state;

(7) develop and use an official state sesquicentennial [a] logo and register such logo in state and federal offices as a service mark or trademark and secure copyright on such logo and any other printed, visual, graphic, audio, or audiovisual materials developed hereunder; [~~to be used by the commission and permit other persons to use the logo if the commission considers the use appropriate~~]; and

(8) adopt rules to:

(A) sanction official sponsors and official commemorative or promotional products; and

(B) exclusively license the use of the official state sesquicentennial logo by official sponsors including business and corporate sponsors, and producers of official commemorative or promotional products, in exchange for either a fee or royalties or both [~~sanction and may sell products, such as a commemorative calendar or flag, commemorating the state's sesquicentennial~~].

Sec. 7A. PROHIBITION. (a) An individual, company, association, or corporation that is not sanctioned or licensed by the commission may not use the official sesquicentennial logo in whole or in part, represent itself as a sponsor of the sesquicentennial, market a product as a commemorative or promotional product of the sesquicentennial or further violate any other provision of this Act.

(b) No sanctioned individual, private organization, local sesquicentennial committee or governmental body may grant or license any sesquicentennial sponsorship or use the official state sesquicentennial logo in whole or in part without the express approval of the Texas 1986 Sesquicentennial Commission.

(c) The attorney general on behalf of the commission, or a private lawyer approved by the attorney general, is authorized to institute civil action against any violation of this Art. 6145-11 and in addition to securing an injunction to prevent further violations may also recover actual damages for any violation and at the discretion of the court may recover statutory damages up to $5,000 per violation and attorney fees are obtainable.

SECTION 4. Section 1, Chapter 548, Acts of the 67th Legislature, Regular Session, 1981 (Article 6145-11a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. COUNTY SESQUICENTENNIAL COMMITTEES [~~COMMEMORATIVE MEDALS~~]. (a) The commissioners court of a county may appoint a committee to organize activities celebrating the state's sesquicentennial.

(b) The commissioners court may appropriate funds from the general fund of the county that the committee may use to perform its functions.

(c) The committee may accept donations, on behalf of the county, and use the donations to perform its functions.

(d) The committee shall make quarterly reports of its activities to the commissioners court.

(e) This Act expires on September 1, 1987 [~~The state treasurer may coin gold alloy medals commemorating the Texas sesquicentennial in one, one-half, one-fourth, and one-tenth of an ounce weights.~~

[~~(b) The state treasurer shall sell any commemorative medals coined under this Act to the public at prices that are calculated to recover at least the costs of making and selling the medals.~~

[~~(c) Sales of commemorative medals under this Act are exempt from state and local sales tax.~~

[~~(d) If the state treasurer determines to coin commemorative medals under this Act, the Texas 1986 Sesquicentennial Commission shall conduct a contest to determine the design of the medals.~~

[~~(e) In no event shall the sale issuance price of coined commemorative medals under this Act be less than the cost of production plus the cost of the gold and the intrinsic value~~].

SECTION 5. Title 106, Revised Statutes, is amended by adding Article 6145-11b to read as follows:

Art. 6145-11b. SESQUICENTENNIAL FUND

Sec. 1. Amounts received from the following sources shall be deposited in a special fund in the state treasury to be known as the sesquicentennial fund and are appropriated for the purposes contained herein:

(1) licensing fees and royalties authorized by paragraph Subdivision (8), Section 7, (B), Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes); and

(2) proceeds from the sale of medallions designated by the Texas 1986 Sesquicentennial Commission as lone stars under Article 6145-14a, Revised Statutes.

Sec. 2. After the expiration of Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), the comptroller of public accounts shall collect proceeds from royalties due under licenses granted by the Texas 1986 Sesquicentennial Commission.

Sec. 3. As amounts from licensing fees, royalties, and the sale of medallions designated as lone stars by the Texas 1986 Sesquicentennial Commission are deposited in the fund:

(1) the state treasurer shall allocate the amounts equally between an account in the fund that may be used only by the Texas Tourist Development Agency and an account in the fund that may be used only by the Texas Commission on the Arts, until the account of the Texas Commission on the Arts has received $1,261,244; and

(2) after the account for the Texas Commission on the Arts has received $1,261,244, the state treasurer shall allocate the amounts only to the account of the Texas Tourist Development Agency until that account has received $2,291,996; and

(3) after the account for the Texas Tourist Development Agency has received $2,291,996, the state treasurer shall allocate the amounts equally among the account of the Texas Tourist Development Agency, the account of the Texas Commission on the Arts, and an account in the fund that may be used only by the Texas 1986 Sesquicentennial Commission, until the account of the Texas Commission on the Arts has received a total of $7,095,846 from amounts allocated under this subsection and Subsection (1) of this section;

(4) after the account for the Texas Commission on the Arts has received a total of $7,095,846 from amounts allocated under Subsections (1) and (3) of this section, the state treasurer shall allocate the amounts equally between the accounts of the Texas Tourist Development Agency and the Texas 1986 Sesquicentennial

Commission until the account of the Texas 1986 Sesquicentennial Commission has received a total of $10,000,000 from amounts allocated under this subsection and Subsection (3) of this section or until January 31, 1987, whichever shall first occur;

(5) after the Texas 1986 Sesquicentennial Commission has received a total of $10,000,000 from the amounts allocated under Subsections (3) and (4) of this section, the state treasurer shall allocate the amounts only to the account of the Texas Tourist Development Agency until the account of the Texas Tourist Development Agency has received a total of $15,145,604; and

(6) after the Texas Tourist Development Agency has received a total of $15,145,604 from amounts allocated under this section, the state treasurer shall allocate the amounts only to the account of the State Preservation Board.

Sec. 4. (a) Money in the fund allocated to the Texas Tourist Development Agency under Sections 3(1) and (2) of this article shall be used to publish an official tour guide of the sesquicentennial or for promotional activities for the Texas 1986 Sesquicentennial Commission.

(b) Money in the fund allocated to the Texas Tourist Development Agency under Sections 3(3), (4), and (5) of this article shall be used to advertise and promote the sesquicentennial both in and out of the state and for other activities as provided by law.

(c) Money in the fund allocated to the Texas Commission on the Arts under Section 3 of this article shall be used for funding and supporting sesquicentennial projects and programs and to perform any of the functions of the commission.

(d) Not less than one-half of the money in the fund allocated to the Texas 1986 Sesquicentennial Commission shall be distributed to local official sesquicentennial committees sanctioned by the commission according to procedures adopted by the commission.

(e) Money in the fund allocated to the Texas 1986 Sesquicentennial Commission that is not distributed to local official sesquicentennial committees under Subsection (d) of this section or used to reimburse the comptroller of public accounts for audit services provided under Section 5 of this article shall be used to advertise and promote the sesquicentennial both in and out of state through interagency contracts with the Texas Tourist Development Agency.

Sec. 5. The Texas 1986 Sesquicentennial Commission may audit any official sesquicentennial licensee or product manufacturer. At the request of the commission, the comptroller of public accounts shall perform the audit. The comptroller of public accounts shall be reimbursed for services provided under this section from money provided for that purpose under Section 4(e) of this article.

SECTION 6. Title 106, Revised Statutes, is amended by adding Article 6145-14a to read as follows:

Art. 6145-14a. LONE STAR MEDALLIONS. (a) The Texas 1986 Sesquicentennial Commission shall designate a one ounce silver lone star medallion and one, one-half, one-fourth, and one-tenth ounce gold lone star medallions as official commemorative medallions of the sesquicentennial.

(b) The board shall contract for the production, marketing, and distribution of the medallions.

(c) The board shall deposit the proceeds from the sale of medallions to the credit of the sesquicentennial fund.

SECTION 7. Subchapter H, Chapter 1512, Tax Code, is amended by adding Section 151.334 to read as follows:

Sec. 151.334. LONE STAR MEDALLIONS. Medallions designated as lone stars by the Texas 1986 Sesquicentennial Commission under Article 6145-14a, Revised Statutes, are exempted from the taxes imposed by this chapter.

SECTION 8. Amend Tax Code, Article 156.251, as follows:

(a) The revenue from the tax imposed by this Chapter shall be deposited in the State Treasury to the credit of the General Revenue Fund.

(b) For the purposes of **S.B. 1002**, 69th Legislature, Regular Session, the Comptroller of Public Accounts shall prepare, no later than September 18, 1985, a forecast of hotel and motel tax revenue for the first five three-month periods of the 1986-87 biennium. The total of such forecasts shall not exceed the January 1985 revenue estimates for hotel and motel tax revenue of $70,751,000 for Fiscal Year 1986 and $76,057,000 for Fiscal Year 1987. Amounts actually collected from the hotel and motel tax for fiscal year 1986 in excess of the estimate, not to exceed $5,000,000, are hereby appropriated for the biennium ending August 31, 1987 to the Texas Tourist Development Agency for media advertising and other marketing activities. The following or some similar procedure shall be used by the Comptroller of Public Accounts in calculating the quarterly transfers:

(i) If at the end of the second three-month period, actual hotel and motel tax receipts for the first quarter exceed the estimate previously established for that quarter, and the actual receipts for the second quarter are at least equal to the sum of, the estimate for the second quarter and any amounts received in the first quarter in excess of the estimate for that quarter, then there is hereby appropriated as of March 2, 1986 from the general revenue fund to the Texas Tourist Development Agency the amount by which receipts for the first quarter exceed the estimate for that quarter.

(ii) If at the end of the third three-month period, actual hotel and motel tax receipts for the second quarter exceed the estimate previously established for that quarter, and the actual receipts for the third quarter are at least equal to the sum of, the estimate for the third quarter and any amounts received in the second quarter in excess of the estimate for that quarter, then there is hereby appropriated as of June 2, 1986 from the general revenue fund to the Texas Tourist Development Agency the amount by which receipts for the second quarter exceed the estimate for that quarter.

(iii) If at the end of the fourth three-month period, actual hotel and motel tax receipts for the third quarter exceed the estimate previously established for that quarter, and the actual receipts for the fourth quarter are at least equal to the sum of, the estimate for the fourth quarter and any amounts received in the third quarter in excess of the estimate for that quarter, then there is hereby appropriated as of September 2, 1986 from the general revenue fund to the Texas Tourist Development Agency the amount by which receipts for the third quarter exceed the estimate for that quarter.

(iv) If at the end of the fifth three-month period, actual hotel and motel tax receipts for the fourth quarter exceed the estimate previously established for that quarter, and the actual receipts for the fifth quarter are at least equal to the sum of, the estimate for the fifth quarter and any amounts received in the fourth quarter in excess of the estimate for that quarter, then there is hereby appropriated as of December 2, 1986 from the general revenue fund to the Texas Tourist Development Agency the amount by which receipts for the fourth quarter exceed the estimate for that quarter.

(c) Except with respect to appropriations authority for the 1987 fiscal year, subsection (b) expires as of December 31, 1986.

SECTION 9. EFFECT OF PARTIAL INVALIDITY. (a) The legislature declares that it would not have enacted this Act without the inclusion of Sections 1 and 2 of this act to the extent those sections provide for broad representation on the commission and for executive committee management of commission affairs between commission meeting. If the appointments provided by this Act are for any reason held invalid by a final judgment of a court of competent jurisdiction, the remainder of this Act and Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes) are void.

(b) Except as provided by Subsection (a) of this section, this Act is severable as provided by Chapter 45, Acts of the 63rd Legislature, Regular Session, 1973 (Article 11a, Vernon's Texas Civil Statutes).

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.

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

(President in Chair)

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 20 ADOPTED

Senator Jones called from the President's table the Conference Committee Report on **H.B. 20**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 25, 1985.)

On motion of Senator Jones, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 3.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire, Williams.

Nays: Barrientos, Mauzy, Washington.

SENATE BILL 993 WITH HOUSE AMENDMENT

Senator Farabee called **S.B. 993** 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 - Clark

Substitute the following for **S.B. 993**:

A BILL TO BE ENTITLED
AN ACT

relating to credit in the Employees Retirement System of Texas for service as a custodial officer.

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

SECTION 1. Section 21.001(8), Title 110B, Revised Statutes, is amended to read as follows:

(8) "Custodial officer" means a member of the retirement system who is employed by the Texas Department of Corrections and certified by that department as having a normal job assignment that requires frequent or infrequent regularly planned contact with, and in close proximity to, inmates of that institution without the protection of bars, doors, security screens, or similar devices, and includes assignments normally involving supervision or the potential for supervision of inmates in inmate housing areas, educational or recreational facilities, industrial shops, kitchens, laundries, medical areas, agricultural shops or fields, or in other areas on or away from property of the institution [~~normal duties with the department that require the person to supervise and have direct contact with inmates of that institution~~].

SECTION 2. Subchapter F, Chapter 23, Title 110B, Revised Statutes, is amended by adding Section 23.506 to read as follows:

Sec. 23.506. CUSTODIAL OFFICER SERVICE. (a) The Texas Department of Corrections by rule shall adopt standards for determining eligibility for service credit as a custodial officer, based on the need to encourage early retirement of persons whose duties are hazardous and require them to have routine contact with inmates of the Texas Department of Corrections on a regular basis.

(b) To be creditable as custodial officer service, service performed must meet the requirements of the rules adopted under Subsection (a) of this section and may be performed by persons in one of the following job categories:

(1) all persons classified as Correctional Officer I through warden, including training officers and special operations reaction team officers;

(2) all other employees assigned to work on a unit and whose jobs require routine contact with inmates, including, but not limited to, farm managers, livestock supervisors, maintenance foremen, shop foremen, medical assistants, food service supervisors, stewards, education consultants, commodity specialists, and correctional counselors;

(3) employees assigned to administrative offices whose jobs require routine contact with inmates, including, but not limited to, investigators, compliance monitors, accountants routinely required to audit unit operations, sociologists, interviewers, classification officers, and supervising counselors; and

(4) administrative positions whose jobs require response to emergency situations involving inmates, including, but except as specified, not limited to, the director, deputy directors, assistant directors, and not more than 25 administrative duty officers.

(c) The Texas Department of Corrections shall determine a person's eligibility to receive credit as a custodial officer. A determination of the department, if verified by the state auditor under Subsection (e) of this section, is final and may not be appealed. If not so verified, a determination is subject to change by the retirement system.

(d) The Texas Department of Corrections shall certify to the retirement system, at the times and in the manner prescribed by the retirement system, the names of persons determined by the department to be eligible for service credit as custodial officers and such other information as the retirement system requires to enable it properly to maintain retirement records.

(e) As part of the normal audit of the Texas Department of Corrections, the state auditor shall verify the accuracy of reports submitted to the retirement system under this section.

SECTION 3. (a) Except as provided by this section, a person who on the effective date of this Act is certified as a custodial officer continues to be so certified as long as the person remains employed by the Texas Department of Corrections.

(b) If a person certified as a custodial officer on the effective date of this Act changes positions, by promotion or otherwise, except by reclassification or title change required by the legislature or the state classification officer, to a position that does not qualify for custodial service as provided by Sections 21.001(8) and 23.506, Title 110B, Revised Statutes, as amended and added by this Act, the person becomes ineligible to continue to receive credit for custodial officer service.

(c) A person who on the effective date of this Act is certified as a custodial officer, who changes to a position as described by Subsection (b) of this section, and who later resumes service in the position the person held on the effective date of this Act or in another position held before the effective date of this Act does not become eligible to receive credit for custodial officer service in the resumed position unless the position meets the requirements of Sections 21.001(8) and 23.506, Title 110B, Revised Statutes, as amended and added by this Act, and the rules adopted under Section 23.506.

SECTION 4. As soon as possible after rules adopted by the Texas Department of Corrections under Section 23.506, Title 110B, Revised Statutes, as added by this

Act, take effect, the department shall apply the rules to all future service to be credited in the Employees Retirement System of Texas as custodial officer service to persons who are members of the retirement system.

SECTION 5. This Act takes effect September 1, 1985.

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 amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 1007 WITH HOUSE AMENDMENT

Senator Santiesteban called **S.B. 1007** 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.

Floor Amendment - McDonald

Amend **S.B. 1007** as follows:

(1) On page 4, strike lines 25-26 and substitute the following:

SECTION 4. PROHIBITED ACTS. (a) A person may not represent himself or herself as able to practice respiratory care or represent himself or herself as a respiratory care practitioner unless the person holds a certificate or permit issued under this Act.

(b) A person who is not certified under this Act as a respiratory care practitioner or whose certification has been suspended or revoked may not use in connection with his or her practice the words "respiratory care," "respiratory therapist," "respiratory care practitioner," "certified respiratory care practitioner," or the letters "R.C.P." or any other words, letters, abbreviations, or insignia indicating or implying that the person is a respiratory care practitioner. Such a person may not in any way, either orally, in writing, in print, or by sign, directly or by implication, represent himself or herself as a respiratory care practitioner.

(c) A person may not practice respiratory care other than under the direction of a qualified medical director or other physician licensed by the Texas State Board of Medical Examiners.

(2) On page 5, strike lines 1-5.

(3) On page 5, line 6, strike "(b)" and substitute "(d)".

(4) On page 5, line 18, strike "(c)" and substitute "(e)".

(5) On page 9, line 2, between "care" and "learned", insert ", as defined by this Act,".

(6) On page 9, line 4, strike "medical" and substitute "health care".

(7) On page 9, line 6, between "professions" and the semicolon, insert "or who are acting under the delegated authority of a licensed physician".

(8) On page 9, line 15, between "medicine" and "by", insert ", as defined by the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes),".

(9) On page 10, line 14, strike "or".

(10) On page 10, line 16, strike the period and substitute "; or".

(11) On page 10, between lines 16 and 17, insert Subdivision (8) to read as follows:

(8) has practiced respiratory care other than under the direction of a qualified medical director or other physician.

(12) On page 10, line 25, strike "Subsection (a) of".

The amendment was read.

Senator Santiesteban moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1367 WITH HOUSE AMENDMENTS

Senator Brooks called **S.B. 1367** 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.

Floor Amendment No. 1 - Vowell

Amending **S.B. 1367** by adding new SECTIONS 3, 4 and 5 to read as follows and renumbering current SECTION 3 and SECTION 4 appropriately:

SECTION 3. Article 3.51-6, Insurance Code, is amended by adding Section 3B to read as follows:

Sec. 3B. CONTINUATION PRIVILEGE FOR CERTAIN DEPENDENTS. (a) In this section, "health insurance policy" means a group policy or contract, including group contracts issued by companies subject to Chapter 20 of this code and the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), providing insurance for hospital, surgical, or medical expenses incurred as a result of an accident or sickness.

(b) Each health insurance policy delivered, issued for delivery, renewed, amended or extended in this state shall include an option for each person covered by the policy by virtue of family or dependent relationship to a person who is a member of the group for which the health insurance policy is provided to continue coverage with the group if:

(1) previous eligibility for coverage under the health insurance policy ceases because of the severance of the family relationship or the retirement or death of the member of the group; and

(2) The family member or dependent has been a member of the group for a period of at least one year or is an infant under one year of age.

(c) A person who exercises the option provided by Subsection (b) of this section may not be required to take and pass a physical examination as a condition for continuing coverage.

(d) If a person exercises the option provided by Subsection (b) of this section, that person is entitled to coverage that is identical in scope to the coverage provided under the health insurance policy, and exclusions that were not included in the health insurance policy may not be included in the group continuation coverage. However, if the group policyholder replaces the health insurance policy within the two-year period provided by Subsection (1)(4) of this section, the person may obtain coverage identical in scope to the coverage under the replacement group policy as provided by this article.

(e) A person covered under group continuation coverage shall pay premiums for the coverage directly to the group policyholder, and the coverage shall provide the person with the option of paying the premiums in monthly installments. The group policyholder may require the person to pay a fee of not more than $5 a month for administrative costs.

(f) Except as provided in subsection (m) of this section, a premium for continuation of the spouse or dependent on the group policy shall be no more than the premium charged under the group contract for the spouse or dependent had the family relationship not been severed.

(g) Except as provided in subsection (m) of this section, at the time the health insurance policy is issued, the group policyholder shall give written notice to each member of the group and each dependent of a member of the group covered by a health insurance policy of the continuation option.

(h) Except as provided in subsection (m) of this section, each health insurance policy shall require a member of the group to give written notice to group policyholder within 15 days of any severance of the family relationship that might activate the continuation option under Subsection (b) of this section, and the group policyholder on receiving this notice shall immediately give written notice to each affected dependent of the continuation option. On receipt of notice of the death or retirement of a group member, the group policyholder shall immediately give written notice to the group member's dependents of the continuation option under Subsection (b) of this section. Such notice shall include a statement of the amount of the premium to be charged, and shall be accompanied by any necessary enrollment forms.

(i) Within 45 days from the severance of the family relationship or the retirement or death of the member of the group, the dependent must give written notice to the group policyholder of the desire to exercise the option under Subsection (b) of this section or the option expires. Coverage under the health insurance policy remains in effect during this 45 day period provided the policy premiums are paid.

(j) Any period of previous coverage under the health insurance policy is to be used in full or partial satisfaction of any required probationary or waiting periods provided in the contract for dependent coverage.

(k) If a health insurance policy provides to a group member continuation rights to cover the period between the time that the member retires and the time of eligibility for coverage by Medicare, those same continuation rights shall be made available to the group member's dependents.

(l) If a person exercises the continuation option under Subsection (b) of this section, coverage of that person continues without interruption and may not be cancelled or otherwise terminated until:

(1) the insured fails to make a premium payment in the time required to make that payment;

(2) the insured establishes residence outside the state;

(3) the insured becomes eligible for substantially similar coverage under another health insurance policy, hospital or medical service subscriber contract, medical practice or other prepayment plan or by any other plan or program; or

(4) a period of one year has elapsed since the severance of the family relationship or the retirement or death of the member of the group.

(m) Contracts executed pursuant to the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) shall provide that:

(1) Premium payments must be remitted directly to the Employees Retirement System of Texas and must be postmarked or received not later than the 10th day of the month for which the premium is due.

(2) The premium for this group continuation coverage may not exceed the level established for other surviving dependents of deceased employees or retirees.

(3) At the time the health insurance policy is delivered, issued for delivery, renewed, amended or extended on or after January 1, 1986, the Employees Retirement System of Texas shall give notice of the continuation option to each commission, agency, and institution covered by the program. The commissions, agencies, and institutions shall give written notice of the continuation option to each of their employees and each dependent of those employees who are covered by the health insurance program.

(4) Each member of the group shall give written notice to the employing agency within 15 days of any severance of family relationship that might activate the continuation option under Subsection (B) of this section. Upon receipt of such notice or upon the death of an employee, the employing agency shall give written notice to each affected dependent of the continuation option, which shall include a statement of the amount of the premium to be charged. Notice under this paragraph will be accompanied by any necessary enrollment forms.

(5) The covered dependent must exercise this continuation option within 45 days from the severance of the family relationship or the retirement or death of the member and must provide written notification to the employing agency within 45 days. Coverage under the health insurance policy remains in effect during this 45 day period provided the policy premiums are paid.

(6) Any period of previous coverage under the health insurance policy is to be used in full or partial satisfaction of any required probationary or waiting periods provided in the contract for dependent coverage.

SECTION 4. (a) In addition to the notice required by Subsection (g), Section 3B, Article 3.51-6, Insurance Code, as added by this Act, an insurer shall give the same written notice to each member of a group and each dependent insured under health insurance policy delivered or issued for delivery before the effective date of this act on the first renewal of that policy on or after January 1, 1986.

(b) Section 3B, Article 3.51-6, Insurance Code, as added by this Act, applies only to the health insurance policies defined in that section that are delivered, issued for delivery, renewed, amended, or extended after January 1, 1986. Health insurance policies delivered or issued for delivery before that date are governed by the law as it existed before the adoption of this Act until those policies are renewed on or after January 1, 1986, and that law is continued in effect for that purpose.

SECTION 5. Article 20A.26, Insurance Code, is amended by adding a new subsection (i) to Section 4, to read as follows:

(i) Any health maintenance organization authorized under this Act shall be subject to Article 3.51-6, Section 3B, Insurance Code.

Floor Amendment No. 2 - C. Evans

Amend Floor Amendment No. 1 to **S.B. 1367** by:

1) In Sec. 3.B.(d) delete the words "two-year" and substitute therefore "one-year".

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 1063 WITH HOUSE AMENDMENT

Senator Parmer called **S.B. 1063** 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 - Carter

Substitute the following for **S.B. 1063**:

A BILL TO BE ENTITLED
AN ACT

relating to the licensing of surplus lines agents.

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

SECTION 1. Section 4, Article 1.14-2, Insurance Code, is amended to read as follows:

Sec. 4. SURPLUS LINES AGENT'S LICENSE. (a) An agent licensed by the state may not issue or cause to be issued an insurance contract with an unauthorized insurer, unless the agent possesses a current surplus lines license issued by the State Board of Insurance.

(b) The State Board of Insurance may issue a surplus lines license to an agent as defined by Section 2(a)(1) of this article after the agent has:

(1) remitted the annual fee set by the State Board of Insurance in an amount not to exceed $50;

(2) submitted a completed license application on a form approved by the State Board of Insurance; and

(3) passed a qualifying examination approved by the State Board of Insurance. If the agent is a partnership, this examination requirement must be met by each natural person acting as a partner in that partnership. If the agent is a corporation, this examination requirement must be met by each natural person acting as an officer, director or shareholder of that corporation.

(c) Unless the State Board of Insurance adopts a system for staggered renewal of licenses, as provided by this section, each license issued under this section is for a two-year term that expires on December 31; however, the term of the initial licensing period shall expire on December 31 of the year following the year in which the license is issued. A license may be renewed for periods of two years.

(d) By filing a written application in the form prescribed by the State Board of Insurance, and paying the renewal fee set by the board in an amount not to exceed $50, an [~~The State Board of Insurance may issue a surplus lines license to any authorized agent which shall grant such agent authority to procure the kinds of insurance provided for in this Article from companies not licensed in this state under the conditions prescribed in this Article. Unless the State Board of Insurance adopts a system for staggered renewal of licenses under Subsection (c) of this section, every license issued pursuant to this section shall be for a term expiring on the 31st day of December next following the date of issuance, and every license may be renewed for ensuing periods of 12 months. Before any such license shall be issued and before each renewal thereof a written application shall be filed by the applicant in such form as the State Board of Insurance prescribed and the fee provided therefor by this Article shall be paid.~~

[~~(b) The fee for the issuance of a surplus lines license shall be in an amount not to exceed $50 as determined by the State Board of Insurance. Fees and renewal fees for a license shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund.~~

[~~(c) The State Board of Insurance by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is less than one year from its issuance or anniversary date, the license fee shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee that is allocable to the number of months during which the license is valid. On each subsequent renewal of the license, the total license renewal fee is payable.~~

[~~(d) An~~] unexpired license may be renewed on or [~~by paying the required renewal fee to the board~~] before the expiration date of the license. If a license has been expired for not longer than 90 days, the license may be renewed by filing a written application for renewal and by paying to the board the required renewal fee and a fee that is one-half of the original fee for the license. If a license has been expired for longer than 90 days but less than two years, the license may be renewed by filing a written application for renewal and by paying to the board all unpaid renewal fees and a fee that is equal to the original issuance fee for the license. If a license has been expired for two years or longer, the license may not be renewed. A new license may be obtained by complying with the requirements and procedures

for obtaining an original license. This subsection may not be construed to prevent the board from denying or refusing to renew a license under applicable law or rules of the State Board of Insurance.

(e) At least 30 days before the expiration of a license, the commissioner of insurance shall send written notice of the impending license expiration to the licensee at the licensee's [his] last known address.

(f) The commissioner of insurance shall collect in advance from an agent who requests a duplicate license a fee not to exceed $20. The State Board of Insurance shall set the amount of the duplicate license fee.

(g) The board shall deposit license fees and renewal fees in the state treasury to the credit of the State Board of Insurance operating fund. Such fees are not refundable.

SECTION 2. A person who holds a surplus lines agent license on the effective date of this Act is exempt from the examination requirement under Section 4(b) of Article 1.14-2, Insurance Code, as amended by this Act.

SECTION 3. This Act takes effect September 1, 1985, and applies to a surplus lines agent license that is issued on or after that date.

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.

The amendment was read.

Senator Parmer moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 1128 WITH HOUSE AMENDMENT

Senator Glasgow called **S.B. 1128** 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 - Carter

Amend **S.B. 1128** by adding a new SECTION 3 and renumbering SECTION 3 as SECTION 4. The new SECTION 3 to read as follows:

SECTION 3. Article 1.05, Insurance Code, as amended, is amended by adding a new Section (c) to read as follows:

(c) Notwithstanding any other provisions of law, members of the State Board of Insurance may meet in closed session to deliberate and determine any matter respecting an appeal from an order of the Commissioner of Insurance in a contested case, provided however all evidence on which such decision is made must be presented to the Board in accordance with the Open Meetings Act and the Administrative Procedure and Texas Register Act.

The amendment was read.

Senator Glasgow moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

(Senator Brooks in Chair)

SENATE BILL 1139 WITH HOUSE AMENDMENT

Senator Henderson called **S.B. 1139** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment - Messer

Amend **S.B. 1139** on page 2, between lines 10 and 11, by inserting appropriately numbered sections to read as follows and renumbering the subsequent section accordingly:

SECTION _____. COMPENSATION FOR SIGNS. (a) If a sign is required to be removed, the owner of the sign is entitled to be compensated for the value of the sign, including the cash value of the tangible, physical property constituting the sign structure, determined in accordance with standards and procedures applicable to a proceeding under Chapter 21, Property Code.

(b) If a sign is required to be removed, the owner of the real property on which the sign was located is entitled to be compensated for the decrease in the value of the real property. The compensation shall be determined in accordance with standards and procedures applicable to a proceeding under Chapter 21, Property Code.

SECTION _____. PAYMENT OF COMPENSATION. (a) To pay the compensation required by Section _____ of this Act, the governing body of a toll road authority may use only a method or a combination of methods described by this section.

(b) The governing body of a toll road authority, with the approval of the commissioners court and in accordance with the Property Redevelopment and Tax Abatement Act (Article 1066f, Vernon's Texas Civil Statutes), may abate county property taxes that otherwise would be owed by the owner of a sign to be removed. The governing body may declare an area to be a reinvestment zone for purposes of abating property taxes under this subsection if the area encompasses signs designated by the governing body for removal. The abated taxes may be on any real or personal property in the county, other than residential property, owned by the owner of the sign. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right of abatement with respect to taxes on any nonresidential property in the same county. In a county in which tax abatement is used in order to pay compensation, the compensation shall include reasonable interest and the abatement period may not exceed five years.

(c) The governing body of a toll road authority may allocate all or any part of the county property tax paid on a sign, on the real property on which a sign is located, or on other real or personal property owned by the owner of a sign to a special fund in the county treasury to be known as the sign abatement and community beautification fund, and make payments from that fund to pay compensation to owners of signs required to be removed.

(d) The governing body of a toll road authority may provide for the issuance of sign abatement revenue bonds and use the proceeds to pay compensation to the owners of signs required to be removed. The governing body may only use the proceeds from those bonds for the removal of signs that are visible from the main-travelled way of the toll road.

(e) The governing body of a toll road authority may pay compensation in cash.

The amendment was read.

Senator Henderson moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Mauzy.

SENATE BILL 1175 WITH HOUSE AMENDMENTS

Senator Farabee called **S.B. 1175** 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 - Hury

Amend **S.B. 1175** as follows:

On page 21, lines 24 through 26, delete the words "guilty of a Class A misdemeanor and, upon conviction, shall be subject to a fine not to exceed $2,000." and insert in lieu thereof "subject to a fine not to exceed $50."

Floor Amendment No. 1 - Bush

Amend **S.B. 1175** to read as follows:

(1) On page 4, line 26, delete the word "The" and before the word "Supreme", insert the following:

"After reviewing the recommendations of the Texas Commission on Child Support, the"

Floor Amendment No. 2 - Patronella

Amend **S.B. 1175** by adding the following and renumbering appropriately:

"Chapter 14, Family Code, is amended by adding Section 14.13 to read as follows:

"Sec. 14.13. EXEMPTION FROM COURT FEES: ATTORNEY GENERAL. A clerk, auditor, sheriff, or other government officer or employee may not charge a fee or other amount for services rendered in connection with an action or proceeding in which the attorney general of this state is representing a party for the purpose of obtaining child support."

Floor Amendment No. 3 - S. Thompson

Amend **S.B. 1175**, page 2, by inserting new Sections 3 and 4 between lines 11 and 12 to read as follows and renumbering subsequent sections accordingly:

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

(b) A suit in which adoption is sought may be brought in the county where the child resides or in the county where[;] the petitioners reside[~~, or if the child is placed for adoption by an authorized agency, in the county where the authorized agency is located~~].

SECTION 4. Section 11.12(b), Family Code, is amended to read as follows:

(b) The social study may be made by any state agency, including the Texas Department of Human Resources[~~, or any private agency,~~] or any person appointed by the court. [~~If an authorized agency is the managing conservator, the social study shall be made by the authorized agency.~~] The social study shall be made according to criteria established by the court.

Floor Amendment No. 4 - McKinney

Amend **S.B. 1175** to read as follows:

(1) On page 39, line 20, delete SECTION 12 and SECTION 13 and substitute the following:

SECTION 12. Title 3, Human Resources Code, is amended by adding Subtitle D to read as follows:

"SUBTITLE D. CHILD SUPPORT COLLECTION, PARENT LOCATOR, AND PATERNITY DETERMINATION SERVICES

"CHAPTER 76. ATTORNEY GENERAL'S OFFICE

"Section 76.001. ADMINISTRATION OF STATEWIDE PLAN FOR CHILD SUPPORT. The attorney general's office is the state agency designated to administer a statewide plan for child support to provide child support collection, parent locator, and paternity determination services that will enable it and the Texas Department of Human Resources to participate in programs established by federal law.

"Section 76.002. POWERS AND DUTIES OF ATTORNEY GENERAL'S OFFICE. (a) The attorney general may:

"(1) accept, transfer, and expend funds, subject to the General Appropriations Act, made available by the federal or state government or by another public or private source for the purpose of carrying out this chapter;

"(2) adopt rules for the provision of child support services;

"(3) initiate legal actions needed to implement this chapter;

"(4) enter into contracts or agreements necessary to administer this chapter; and

"(5) request agencies of the state and its political subdivisions to search their records to help locate absent parents.

"(b) The attorney general may assist in the judicial determination of the paternity of an illegitimate child whose support rights have been assigned to the attorney general's office.

"(c) The attorney general shall attempt to locate absent parents and is entitled to obtain records and information relating to the location, income, and property holdings of an absent parent from other state and local agencies.

"(d) The attorney general may enter into agreements or contracts with federal, state, or other public or private agencies or individuals for the purpose of carrying out this chapter. The agreements or contracts between the attorney general and other state agencies or political subdivisions of the state are not subject to the Interagency Cooperation Act (Article 4413(32), Vernon's Texas Civil Statutes) or the Uniform Grant and Contract Management Act of 1981 (Article 4413(32g), Vernon's Texas Civil Statutes).

"Section 76.003. ASSIGNMENT OF RIGHT TO SUPPORT. (a) The filing of an application for or the receipt of financial assistance under Chapter 31 of this code constitutes an assignment to the attorney general of any rights to support from any other person that the applicant or recipient may have in his 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. An applicant's assignment under this section is valid only if the Texas Department of Human Resources approves the application. The attorney general 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 support payments for the benefit of a recipient child or a child other than a recipient child for whose benefit the attorney general has provided service under this chapter may be made to the attorney general. If a court has ordered support payments to be made to an applicant for or recipient of financial assistance or to a person other than such applicant or recipient, the attorney general 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, or a child other than a recipient child for whom services are provided;

"(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 attorney general's office.

"(c) On receipt of the notice and without a requirement of a hearing, the court shall order that the payments be made to the attorney general's office.

"(d) The attorney general's office shall cooperate with the Texas Department of Human Resources in determining the distribution and use of child support payments received under this section.

"Section 76.004. SERVICES FOR PERSONS NOT RECEIVING ASSISTANCE. (a) The attorney general's office on request may provide parent locator, child support collection, or paternity determination services available to a person other than an applicant for or a recipient of financial assistance under Chapter 31 of this code. The office may charge a reasonable application fee and recover costs for the services provided.

"(b) In its administration of the federal Parent Locator Service for the enforcement or determination of child custody in cases of parental kidnapping of a child, the attorney general shall provide parent locator services to a person who presents evidence to the attorney general's office showing that the person is entitled to possession of a child under a court order, but is unable to locate the child because of the taking or retaining of possession of the child or concealment of the whereabouts of the child in violation of the court order. The attorney general may charge a reasonable application fee and recover costs for the services provided.

"Section 76.005. DISPOSITION OF FUNDS. (a) The attorney general shall deposit money received under assignments or as fees under this chapter in a special fund in the State Treasury. The attorney general may spend these funds for the administration of this chapter, subject to the General Appropriations Act.

"(b) All other funds received under this chapter shall be deposited in a special fund in the State Treasury.

"Section 76.006. CONFIDENTIALITY OF RECORDS. All files and records on recipients of benefits provided under this chapter and on an alleged father of an illegitimate child are confidential. Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support collection, paternity determination, parent locator, or aid to families with dependent children programs. The attorney general by rule may provide for the release of information to public officials.

"Section 76.007. ATTORNEYS REPRESENTING STATE. Attorneys employed by the attorney general may represent the state or other parties in a suit to establish a child support obligation, collect child support, or determine paternity brought under the authority of federal law or this chapter. The attorney general may contract with private attorneys or political subdivisions of the state to represent parties in legal actions to establish child support obligations, to collect child support, or to determine paternity, brought under the authority of federal law and this chapter.

The attorney general shall provide copies of all contracts entered into under this Section to the Legislative Budget Board and the Governor's Office of Budget and Planning, along with a written justification of the need for each contract, within sixty days after the execution of the contract.

"Section 76.008. PAYMENT OF PENALTIES. From funds appropriated for the attorney general's office or for the administration of the office of the attorney general, the attorney general shall reimburse the Texas Department of Human Resources for any penalty assessed under Title IV-A of the federal Social Security Act that is assessed because of the office's administration of this chapter."

"CHAPTER 77. PARENT LOCATOR SERVICE

"Section 77.001. DESIGNATED STATE AGENCY. (a) The state agency designated to administer a statewide plan for child support may establish and conduct a parent locator service which shall be used to obtain information as to the whereabouts, income, and holdings of any person when such information is to be used for the purposes of locating such person and establishing or enforcing a support collection against such person.

(b) The designated state agency may request such information from state and local government agencies, private companies, institutions, or other entities as deemed necessary to carry out the provisions of this Act. Such government and private entities shall furnish any information so requested and known to such entity to the designated agency, except to the extent such information is made non-disclosable by law.

(c) The furnishing of information provided for in Subsection (a) by state governmental agencies shall include the transmittal of information in the most efficient and expeditious manner available, including electronic or automated transfer and interface."

SECTION 13. This Act takes effect September 1, 1985.

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.

The amendments were read.

Senator Farabee moved to concur in the House amendments.

The motion prevailed.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1811

Senator Caperton submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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 **H.B. 1811** 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.

CAPERTON	GAVIN
MAUZY	A. SMITH
PARKER	ECKELS
BROWN	MILLSAP
JONES	WOLENS
On the part of the Senate	On the part of the House

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

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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.C.R. 187, Suspending House and Senate Rules for the conferees on **S.B. 578**.

The House has concurred in Senate amendments to **H.B. 1220** by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 1184 WITH HOUSE AMENDMENTS

Senator Lyon called **S.B. 1184** 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 - Robinson

Amend **S.B. 1184** by inserting a new section as follows and renumbering other bill sections accordingly:

SECTION 2. Section 252.012 of the Agriculture Code is amended to read as follows:

Section 252.012. REPORTS.

Before January 1 of each year, the Commissioner shall submit a report to the Legislature, the Legislative Budget Board, and the State Auditor, concerning his or her actions and those of the advisory council and the administrator of the program under this chapter during the preceding year and the status of loans guaranteed, and the State Auditor shall audit the program for compliance with statute.

Committee Amendment No. 2 - Robinson

Amend **S.B. 1184** SECTION 4, Section 252.023, subsection (c), by deleting the underscored words "administrator of the program" and substituting "advisory council".

Committee Amendment No. 3 - Robinson

Amend **S.B. 1184** SECTION 4, Section 252.023, subsection (a), by striking the words "or family partnership"; and by striking the language after "administrator of the program" and substituting the following: "shall determine eligibility [;] and shall recommend the approval or denial of the application to the advisory council. The advisory council shall approve the application if the requirements of this chapter and the rules adopted under this chapter are met. [~~and~~] The administrator shall notify the lender and the applicant of the decision."

Committee Amendment No. 4 - Robinson

Amend **S.B. 1184** by deleting SECTION 3 of the bill.

Committee Amendment No. 5 - Robinson

Amend **S.B. 1184**, SECTION 2, Section 252.021. ELIGIBILITY FOR LOANS, by striking the words "not including" after "$200,000," and inserting "excluding up to $100,000 of"; and by adding a new subsection to Section 252.021, Agriculture Code, to read as follows: "(b) A family farm and ranch security loan shall not exceed $250,000."

And designating the previous Section 252.021 as subsection (a) of Section 252.021.

Committee Amendment No. 6 - Robinson

Amend **S.B. 1184**, SECTION 1, Section 252.001. DEFINITIONS, by inserting a new definition: (1) "Advisory council" means the Family Farm and Ranch Advisory Council created under Section 252.01 of this chapter., and renumbering the subsequent definitions; and by striking the underscored language "or family partnership" in both instances.

The amendments were read.

Senator Lyon moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 1247 WITH HOUSE AMENDMENT

Senator Leedom called **S.B. 1247** from the President's table for consideration of the House amendment to the bill.

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

Committee Amendment - A. Hill

Substitute the following for **S.B. 1247**:

A BILL TO BE ENTITLED
AN ACT

amending Section 55, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) by adding a new subsection (e); relating to the provision of retail electric utility service in certain areas once or currently served by more than one electric retail public utility holding a certificate of public convenience and necessity.

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

SECTION 1. Section 55, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding a new subsection (e) to read as follows:

(e) In recertification under subsection (d) of this section, the commission may apply, but is not limited by, the provisions of such subsection (d) in:

(1) any area of the municipality that historically has been certificated to be served retail electric utility service by more than two (2) electric retail public utilities; or

(2) any area of the municipality that the commission may certificate to be served by an electric retail public utility that historically was not certificated to serve such area.

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 amendment was read.

Senator Leedom moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Mauzy.

STATEMENT OF SENATOR JOHN LEEDOM ON LEGISLATIVE INTENT FOR SENATE BILL 1247

The City of Garland and TP&L have provided electric service in Garland for over sixty years. Since the Public Utility Regulatory Act was adopted in 1975, Garland and TP&L have both been certificated to provide electric service to the entire City. During the history of electric service in the City, there has been heated and sometimes bitter competition between the City and TP&L. This competition has led to duplication of facilities and waste.

In 1983 the City and TP&L agreed that this wasteful competition should stop and that each utility should be singly certificated to serve in the City. However, TP&L would not agree to recertification without a directive to the PUC from the Legislature. In response to this requirement of TP&L, the City requested the Legislature to pass a bill to require the PUC to singly certificate the City. This bill was passed and is now codified as subsection (d) of section 55 of the Public Utility Regulatory Act.

The only purpose for subsection (d) was to stop the wasteful competition between the City and TP&L by requiring single certification between those two utilities. However, when the PUC staff instituted proceedings to implement the provisions of subsection (d), it was discovered that Farmer's Electric Cooperative served 46 customers in a 400 feet strip, about 12 miles long, in the northern undeveloped area of the City. Farmer's was certificated to serve this area under the grandfather provision of the Public Utility Regulatory Act. For no reason, other than the fact that Farmer's has rural service lines in the area, the PUC staff has recommended that Farmer's be certificated to serve a substantial area of the City that it has never been certificated to serve before.

I introduced **S.B. 1247** to direct the PUC to carry out the original intent of subsection (d) of section 55 of the Public Utility Regulatory Act by leaving Farmer's service area the same as historically it has been and singly certificating the City between the City and TP&L. This is what the bill provided when it passed the Senate.

The Texas Electric Cooperative Association has opposed **S.B. 1247** for the stated reason, it would set a bad precedent for the Legislature to direct the PUC how to rule in a pending case. No argument has been made in support of the PUC staff recommendation. Several members of the House State Affairs Committee were concerned over this argument and were uncomfortable in supporting the bill as passed by the Senate. Because of the late date in the session, the House sponsor of the bill agreed to accept a committee amendment to **S.B. 1247** to give the PUC the discretionary authority to dually certificate any area that historically was certificated to Farmer's and any area that the PUC may certificate to Farmer's outside of its historical certificated service area. The House amendments will give the PUC the authority to carry out the original intent of subsection (d) of section 55 of the Public Utility Regulatory Act by authorizing the PUC to leave Farmer's dually certificated in the area it has historically been certificated to serve and singly certificate the City and TP&L in the remainder of the City.

S.B. 1247, as passed by this Senate and as amended by the House, clearly repudiates the PUC staff recommendation that Farmer's be singly certificated to

serve in the City of Garland. There is no reasonable justification for the PUC to decertificate the City, with more than $600,000,000 invested to serve in the City, from an area of the City that it historically has been certificated to serve, in favor of a utility, with less than $60,000 invested in the City, that has never been certificated to serve. I trust the PUC and its staff will understand the Legislature's intent in passing **S.B. 1247**.

SENATE BILL 1270 WITH HOUSE AMENDMENT

Senator Mauzy called **S.B. 1270** from the President's table for consideration of the House amendment to the bill.

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

Committee Amendment - Hinojosa

Amend **S.B. 1270** by the following:

On Page 6, strike lines 19 through 25, and insert the following between lines 19 and 25:

SECTION 17. COURT PERSONNEL. (a) A bailiff is not required to attend a hearing held by a master appointed under this Act, but a party, the master, or the referring judge may provide a bailiff for the hearing.

(b) A court reporter is not required to attend a hearing held by a master appointed under this Act, but a party, the master, or the referring judge may provide a court reporter for a hearing.

(c) The judge shall tax the expenses of the bailiff and of the court reporter as costs of court.

The amendment was read.

Senator Mauzy moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON HOUSE BILL 1627

Senator Jones called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1627** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 1627** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Jones, Chairman; Sarpalius, Sims, McFarland and Howard.

SENATE BILL 1273 WITH HOUSE AMENDMENT

Senator Traeger called **S.B. 1273** from the President's table for consideration of the House amendment to the bill.

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

Committee Amendment - Oliveira

Amend **S.B. 1273** by adding the following section, appropriately numbered:

SECTION ___. The following sum of money is hereby appropriated out of the Special Fund No. 036 for payment of itemized claims and judgments plus interest, if any, against the State of Texas as follows:

To pay IBM Corporation, c/o Charles L. Nicholson, 505 Barton Springs Road, Austin, Texas 78704, for error in billing of computer equipment. $88,817.69

Amend **S.B. 1273** by adding the following section, appropriately numbered:

SECTION ___. The following sums of money are hereby appropriated for payment of itemized claims and judgments plus interest, if any, against the State of Texas as follows:

To pay Congress Square, Ltd. No. 1, c/o Shannon H. Ratliff, 1300 Capitol Center, 919 Congress Avenue, Austin, Texas 78701, for breach of contract plus interest from May 9, 1984, until paid, to be computed by the comptroller

Out of Fund No. 001	$65,429.19
Out of Fund No. 141	$65,429.20

Amend **S.B. 1273** on page 4 by deleting lines 17 through 26 and renumbering accordingly.

The amendment was read.

Senator Traeger moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 1300 WITH HOUSE AMENDMENT

Senator Jones called **S.B. 1300** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment - Hury

Amend Subsection (2) of Section 5 of **S.B. 1300** to read as follows:

(2) The remainder of the proceeds, if any, to the State Purchasing and General Services Commission for the biennium beginning September 1, 1985, for the purchase of property consisting of certain lots in Travis County, Texas, more particularly described as follows:

Outlot 41, Parcel No. 2-1002-2903, 04, 05, 06, and 07, Division E, Original City of Austin, Travis County, Texas.

The amendment was read.

Senator Jones moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1304 WITH HOUSE AMENDMENT

Senator Truan called **S.B. 1304** from the President's table for consideration of the House amendment to the bill.

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

Committee Amendment - Craddick

Amend **S.B. 1304** by Truan by striking the words "(insert date)" at page 4, line 21, and inserting in lieu thereof the following:

not earlier than January 1, 1986, but not later than June 1, 1986.

The amendment was read.

Senator Truan moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1442 WITH HOUSE AMENDMENTS

Senator Caperton called **S.B. 1442** 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.

Floor Amendment No. 1 - P. Hill

Amend **S.B. 1442** on page 2, between lines 4 and 5 by inserting a new Section 2 to read as follows and renumbering the current Section 2 as Section 3:

SECTION 2. Chapter 51, Education Code, is amended by adding Section 51.912 to read as follows:

Sec. 51.912. RELIGIOUS HOLY DAYS. (a) An institution of higher education shall allow a student who is absent from classes for the observance of a religious holy day to take an examination or complete an assignment scheduled for that day within a reasonable time after the absence if, not later than the 15th day after the first day of the semester, the student notified the instructor of each class the student had scheduled on that date that the student would be absent for a religious holy day. The notification provided hereby shall be in writing and shall be personally delivered by the student to the instructor of each class, receipt therefor being acknowledged and dated by the instructor, or by certified mail, return receipt requested, addressed to the instructor of each class.

(b) For purposes of this section, "institution of higher education" has the meaning assigned to that term by Section 61.003(7) of this code, except that the term includes the Southwest Collegiate Institute for the Deaf and Texas State Technical Institute.

(c) In this section, "religious holy day" means a holy day observed by a religion whose places of worship are exempt from property taxation under Section 11.20, Property Tax Code.

Floor Amendment No. 2 - Colbert

Amend **S.B. 1442** by adding the following in place of the period on line 13:

"if the customery and generally applicable educational practices of the institution permit general personal absence by members of the faculty. If personal absence is customarily penalized, the penalty for absence due to observance of a religious holy day under this section shall be forfeiture of one day's pay equivalent for each day of absence.

The amendments were read.

Senator Caperton moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 1321 WITH HOUSE AMENDMENTS

Senator Mauzy called **S.B. 1321** 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 - Adkisson

Amend **S.B. 1321** in the following manner:

On Page 2, Line 1, delete "or on the court's own motion".

Committee Amendment No. 2 - Adkisson

Amend **S.B. 1321** as follows:

On page 2, between lines 2 and 3, add the following new Section 3 and renumber all following sections accordingly:

Section 3. Section 3, Chapter 26, Acts of the 68th Legislature, Regular Session, 1983 (Article 2372aa, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3. GENERAL POWERS. The commissioners court is granted all necessary power to make the alternative dispute resolution system effective, including the power to contract with any private nonprofit corporation, political subdivision, public corporation, or combination thereof for the purpose of administering the system and to make all reasonable rules in regard to the system in order to effectuate this Act. The commissioners court may vest the management of such alternative dispute resolution system in a committee selected by the Bar Association of such county, but the acts of such committee shall be subjected to the approval of the commissioners court."

Floor Amendment - Oliver

Amend **S.B. 1321** by adding the following and renumbering appropriately:

SECTION 1. Chapter 719, Acts of the 66th Legislature, Regular Session, 1979 (Article 1918b, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. APPOINTMENT OF MASTER. (a) The judge of a district court[~~, court of domestic relations,~~] or other court having jurisdiction of suits [~~affecting the parent-child relationship~~] under Title 1, 2, or 4, Family Code, as amended, may appoint a master to perform the duties authorized by this Act if the commissioners court of a county in which the court has jurisdiction authorizes the employment of a master. The court may employ either a full or part-time master. Except as provided by Subsection (d) of this section, the master shall be appointed by the judge and serves at the will of the judge.

"(b) If the court exercises jurisdiction in more than one county, the master may serve only in a county in which the commissioners court has authorized the master's appointment.

"(c) If more than one district court[~~, court of domestic relations,~~] or other court having jurisdiction of suits under Title 1, 2, or 4, Family Code, as amended [~~affecting the parent-child relationship~~] has jurisdiction in a county, the commissioners court may authorize the appointment of a master for each court or may authorize one or more masters to share service with two or more courts.

"(d) If a master serves more than one court, the master's appointment must be made with the unanimous approval of all the judges under whom the master serves, and the master's services may be terminated by a majority vote of all the judges for whom the master serves.

"Section 2. QUALIFICATIONS OF MASTER. To be eligible for appointment as a master under this Act, a person must meet all of the requirements and qualifications to serve as a district judge [~~be a resident of Texas and must be licensed to practice law in this state~~].

"Section 3. COMPENSATION OF MASTER. The master is entitled to a salary as determined by the commissioners court of the county in which he or she

serves. If the master serves in more than one county, the master's salary shall be determined by agreement of the commissioners courts of the counties. The salary shall be paid from the county fund available for payment of officers' salaries.

"Section 4. REFERRAL OF CASES TO MASTER. (a) The judge of a court having a master appointed as provided in this Act may refer to the master any aspect of a civil case involving a matter over which the court has jurisdiction under Title 1, 2, or 4, Family Code, as amended, including but not limited to the following, and, after notice to all parties of the time and place of hearing, the master may preside over any hearing enumerated below:

"(1) a hearing for a temporary order in all actions or suits for support by one spouse against another;

"(2) a motion or suit to modify a temporary or final order;

"(3) a suit affecting the parent-child relationship involving temporary orders;

"(4) an application for a temporary injunction involving temporary possession or use of property;

"(5) a habeas corpus proceeding, including any necessary hearing authorized by the Family Code;

"(6) a motion to transfer;

"(7) a motion for contempt for failure or refusal to obey a temporary or final order;

"(8) an action brought under Chapter 21, Family Code;

"(9) an action for the protection of the family;

"(10) a matter on which the parties agree;

"(11) a matter in which a party is entitled to a default judgment; and

"(12) any other matter referred by the judge that is in the jurisdiction of the court, including but not limited to pretrial motions, discovery, summary judgments, and other matters governed by the Texas Rules of Civil Procedure.

"(b) The judge of a court having appointed a master as provided in this Act may also refer to the master a trial on the merits over which the master may preside unless one or more parties files a written objection to the master hearing same, in which event, such trial on the merits shall be heard by the court. Should neither party file a written objection to a referral to the master for hearing on the merits, there shall be no right of appeal to the referring court and the judgment of the master shall become final for purposes of appeal to the court of appeals or to the Supreme Court of Texas. All times for appeal shall be computed in accordance with Subsection (a) of Section 10 of this Act.

"(c) The court may not, however, refer a proceeding to a master appointed pursuant to this Act, where the termination of parental rights is sought, or a proceeding in which any party seeks to appoint a receiver. Should such matters be referred to a master, the master shall not conduct a hearing on same and any order issued by a master on such matters shall be void.

"(d) Upon appointment of a master to a district court or courts, any pending and future cases under Title 1, 2, or 4, Family Code, as amended, may be referred to the master, except as the judge may limit. [~~motions:~~

"[~~(1) for contempt for the failure or refusal to pay child support, temporary support, or separate maintenance or for failure or refusal to comply with court orders concerning the possession of or access to children who have been the subjects of suits affecting the parent-child relationship; or~~

"[~~(2) to modify the decree in a suit affecting the parent-child relationship providing for the support, conservatorship, or possession of or access to a child.~~

"[~~(b) To refer a case to a master, the judge shall issue an order of referral specifying the duties of the master~~].

"Section 5. DUTIES [~~POWERS~~] OF MASTER. [~~(a)~~] Except as provided by Subsection (c) [~~(b)~~] of Section 4 of this Act [~~this section~~], a master to whom a case is referred may:

"(1) conduct hearings;
"(2) hear evidence;
"(3) compel the production of relevant evidence;
"(4) rule on the admissibility of evidence;
"(5) issue summons for the appearance of witnesses;
"(6) examine witnesses;
"(7) swear witnesses for the hearing;
"(8) make findings of fact on the evidence;
"(9) formulate conclusions of law;
"(10) recommend the judgment to be made in the case;
"(11) regulate all proceedings in a hearing before the master; and
"(12) do all acts and take all measures necessary and proper for the efficient performance of the master [~~duties required in the order of referral~~].

"[~~(b) The order of referral may limit the powers of the master and direct the master to report only on specific issues, do particular acts, or receive and report on evidence only. The order may set the time and place for the hearing, prescribe a closing date for the hearing, and provide for a date for the filing of the master's report.~~]

"Section 6. PARTIES AND WITNESSES APPEARING BEFORE MASTER. (a) A party or a witness appearing before the master is subject to the penalties of perjury if the party or witness is duly sworn.

"(b) If a party or a witness after being duly summoned fails to appear or having appeared refuses to answer questions, on certification of the refusal to the referring court, the master may recommend to the court to [~~may~~] issue attachment against the party or witness and the master may recommend to [~~may~~] fine or imprison the witness.

"(c) Except as otherwise provided in this Act, a master may take testimony in a case over which the District Court has jurisdiction and may recommend that the judge enter a final judgment or interlocutory order.

"Section 7. REPORT [~~FINDINGS~~]; NOTICE. On the conclusion of the hearing in each case, the master shall transmit to the referring judge all papers relating to the case, together with his report [~~the findings~~] and a statement that notice of the report [~~findings~~] and of the right to a hearing before the judge has been given to all parties [~~adult principals, minors, or parents, guardians, or custodians of any minor whose case has been heard by the master~~]. This notice may be given at the hearing or otherwise as the referring court directs.

"Section 8. ACTION ON MASTER'S REPORT. After the master's report is filed, and unless the parties have filed a written notice of appeal, the referring court may adopt, approve, modify, correct, reject, or reverse the master's report or recommit it for further information, as the court may deem proper and necessary in the particular circumstances of the case. If judgment has been recommended, the court in its discretion may approve the recommendation and hear further evidence before rendition of judgment.

"Section 9. HEARING. Adult principals, parties, or a minor child or his parents, guardians, or custodians are entitled to a hearing by the judge of the referring court if within three days as defined by Rule 4 of the Texas Rules of Civil Procedure after [~~receiving notice of the findings~~] the report of the master is signed by the master, they file a request with the court for a hearing. [~~The referring court may allow the hearing at any time.~~]

"Section 10. APPEAL [~~DECREE UPON ADOPTION BY COURT~~]. (a) The first day of the appeal time shall commence on the day after the master signs the report. All notices of appeal shall be in writing, specifying that portion of the master's ruling which is being appealed, and notice shall be given to opposing counsel.

"(b) The referring court, after notice to the parties, shall hold the hearing not later than the 30th day after the date on which the request was filed. The request shall state specifically the findings and conclusions of the master that are objected to, and the hearing shall be limited to those findings and conclusions. The parties may present witnesses as in a hearing de novo on the issues in controversy. Failure to appeal a master's report which disposes of all issues, or which is a final judgment, or where such judgment is appealable without being a final judgment shall not deprive any litigant from appealing directly to the proper court of appeals and to the Supreme Court of Texas. The date of the signing of a judgment shall be the controlling date for the purposes of appeal. [~~If no hearing before the judge of the referring court is requested or the right to such hearing is waived, the findings and recommendations of the master become the decree of the court when adopted by an order of the judge.~~]

"Section 11. EFFECT OF MASTER'S REPORT PENDING APPEAL [~~NOTICE OF TIME AND PLACE OF HEARING~~]. Until the review of the master's report by the referring court, the decisions and recommendations of the master are in full force and effect and are enforceable as an order of the court, except for orders providing for incarceration. [~~Prior to the hearing by the master, the parties litigant shall be given due notice as provided by law of the time and place of the hearing.~~]

"Section 12. INAPPLICABILITY OF THIS ACT TO MASTERS APPOINTED PURSUANT TO RULE 171, TEXAS RULES OF CIVIL PROCEDURE. Masters appointed by the court pursuant to Rule 171 of the Texas Rules of Civil Procedure shall have all the duties and powers set forth in the order of appointment and shall not be governed by the terms of this Act.

"Section 13. JURY TRIAL. In a proceeding in which a jury trial has been demanded, the master shall refer the case back to the referring court for a full hearing before the court and jury, subject to the usual rules of the court in such cases.

"Section 14. IMMUNITY. A master appointed under Section 1 of this Act has the judicial immunity of a district judge. All existing immunity granted masters by law, express or implied, shall continue until this Act becomes effective.

"Section 15. ATTENDANCE OF BAILIFF. A bailiff may attend a hearing held by a master if directed by the referring judge.

"Section 16. COURT REPORTER. A court reporter is not required during a hearing held by a master. A party, the master, or the referring judge may provide for a reporter during the hearing. The record may be preserved by any other means approved by the master. The judge or master may tax the expense of the court reporter as costs.

"Section 17. REAPPOINTMENT OF MASTERS. Upon the date this Act becomes operative, all masters appointed under any statute or act repealed by this Act are hereby reappointed as masters in their respective positions for the court they serve."

SECTION 2. Subsections (a) and (b), Section 11.10, Family Code, as amended, are amended to read as follows:

"(a) In any suit in which termination of the parent-child relationship is sought, the court or a master shall appoint a guardian ad litem to represent the interests of the child, unless the child is a petitioner or unless an attorney ad litem has been appointed for the child or unless the court or a master finds that the interests of the child will be represented adequately by a party to the suit and are not adverse to that party. In any other suit under this subtitle, the court or a master may appoint a guardian ad litem. The managing conservator may be appointed guardian ad litem if he is not a parent of the child or a person petitioning for adoption of the child and if he has no personal interest in the suit.

"If the judge or master of the court determines that the parties or litigants are able to defray the costs of the ad litem's compensation as determined by the reasonable and customary fees for similar services in such county of jurisdiction, such costs may be ordered paid by either or both parties, or the judge or master may order either or both parties, prior to final hearing, to pay said sums into the registry of the court or into an account authorized by the court, for the use and benefit of the ad litem upon order of the court.

"(b) (1) A guardian ad litem shall be appointed to represent any other person entitled to service of citation under the provisions of Section 11.09 of this code if the person is incompetent or a child, unless the person has executed an affidavit of relinquishment of parental rights or an affidavit of waiver of interest in child containing a waiver of service of citation.

"(2) A master may recommend the appointment of an attorney for any party in a case in which it deems representation necessary to protect the interests of the child who is the subject matter of the suit and such may be taxed as costs to be assessed against one or more of the parties."

SECTION 3. INVALIDITY OF ANY PROVISION. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and the provisions of the Act are declared to be severable.

SECTION 4. REPEALER. This Act repeals Chapter 638, Acts of the 64th Legislature, Regular Session, 1975; Chapter 471, Acts of the 65th Legislature, Regular Session, 1977; and Chapter 679, Acts of the 68th Legislature, Regular Session, 1983 (Articles 2338-9b.2, 2338-1d, and 1918d, Vernon's Texas Civil Statutes), except that (1) any matter referred by the judge for whom the master sits under Chapter 719, Acts of the 66th Legislature, Regular Session (Article 1918b, Vernon's Texas Civil Statutes), or any of the above repealed articles in which such trial or hearing has started prior to the effective date of this Act shall be concluded under the terms, rules, and regulations of the repealed acts; (2) all reports, recommendations, and rulings made under any repealed act which are final as to any previous hearing are valid and unaffected, whether or not actually signed by the judge for whom the master sits.

The amendments were read.

Senator Mauzy moved to concur in the House amendments.

The motion prevailed.

RECORD OF VOTE

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

SENATE BILL 1322 WITH HOUSE AMENDMENTS

Senator Leedom called **S.B. 1322** 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 - Wolens

Amend **S.B. 1322**, Section 2(6), by adding the following phrase after "education":

"including the Texas State Technical Institute"

Floor Amendment - Colbert

Amend **S.B. 1322** by deleting the language on page 3, line 14.

The amendments were read.

Senator Leedom moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 1350 WITH HOUSE AMENDMENTS

Senator Leedom called **S.B. 1350** 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.

Floor Amendment No. 1 - Messer

Amend **S.B. 1350** as follows:

(1) In Section 4(b) by striking "15" and substituting "20".

Floor Amendment No. 2 - Schlueter

Amend **S.B. 1350** as follows:

(1) On page 1, line 6, strike "The" and substitute "(a) Except as provided by Subsection (b) of this section, the".

(2) On page 1, between lines 15 and 16, add Subsection (b) to Section 1 of the bill to read as follows:

(b) The asset management division of the General Land Office shall transfer to the Parks and Wildlife Department for development as an urban park a portion of the land in the northwest corner of the tract that includes all or part of the lake resulting from the confluence of Cluck Creek and South Brushy Creek along the frontage of the tract with U.S. Highway 183. The amount of land transferred shall be as much as may be transferred without decreasing the total value of the property by more than the proportion that $6 million bears to $65 million, but not more than 50 acres. The Parks and Wildlife Department may contract with Williamson County for the development and operation of the park; no state funds may be appropriated for the development or maintenance of the park.

(3) Strike Section 4 and substitute the following:

SECTION 4. DISPOSITION OF PROCEEDS. (a) The proceeds of the sale authorized by Section 1 of this Act are allocated as provided by this section.

(b) The first $40 million shall be deposited in the State Treasury to the credit of the General Revenue Fund.

(c) The next $18,500,000 is appropriated to the Texas Department of Mental Health and Mental Retardation for the biennium ending August 31, 1987. That amount shall first be used for necessary life safety code improvements, then for the purchase of land and construction of facilities for a rehabilitation center to replace the one authorized for sale in Section 1 of this Act. Any balance may be used for community center construction and renovation as provided in Section 3.11, Texas Mental Health and Mental Retardation Act (Article 5547-203, Vernon's Texas Civil Statutes), for other construction and improvements as approved by the Board of Mental Health and Mental Retardation, or for residential contract services for juveniles.

(d) Any balance remaining after the preceding allocations are satisfied shall be deposited to the credit of the capitol trust fund.

(e) This Act prevails over any conflicting rider in **H.B. 20**, Acts of the 69th Legislature, Regular Session, 1985, relating to the disposition of proceeds of land under the control of the Texas Department of Mental Health and Mental Retardation.

Floor Amendment No. 3 - Schlueter

Amend **S.B. 1350** on third reading as follows:

(1) Add a new Section 5 to read as follows and renumber the existing Section 5 appropriately:

SECTION 5. Sections 31.159(b) and (d), Natural Resources Code, are amended to read as follows:

(b) After the legislature authorizes the sale of real property, the division shall appoint an appraiser after complying with Subsection (d)(2) of this section. The division must give to the School Land Board a written notice of the proposed sale and must include in the notice a description of the appointed appraiser. To exercise the option, the School Land Board, not later than the 30th day after the date the notice can first be considered by the board at a regular meeting, must give written notice to the division stating that the board has decided to exercise the option. The School Land Board must complete the cash purchase not later than the 120th day after the date the division receives the notice from the board.

(d) (1) Current fair market value shall be determined in accordance with the [~~following~~] procedure[:] prescribed by this subsection [~~simultaneously with the giving of the written notice described in the Subsection (b) above, the division shall appoint an appraiser, and such appointment shall be described in such notice~~]. Within 21 days after the day the School Land Board receives the notice given to the board under Subsection (b) of this section [~~of the receipt of said notice~~], the School Land Board shall appoint a second appraiser. If the School Land Board fails to appoint the second appraiser, the division shall appoint a second appraiser within 21 [~~10~~] days after [~~of~~] the expiration of said 21-day [~~20-day~~] period in which the board could have appointed an appraiser. The two appraisers shall meet promptly and shall attempt to reach agreement on the current fair market value. If the two appraisers so selected do not reach agreement within 10 days of such meeting, the two original appraisers shall appoint another appraiser whose appraisal shall be final and binding on both parties if said appraisal is at least as high as the lower of the appraisals of the two original appraisers. If said appraisal is not at least as high as the lower of the two original appraisals, the two original appraisers shall continue to appoint additional appraisers until an additional appraiser's appraisal is at least as high as the lower of the two original appraisals, and that appraisal shall be final and binding.

(2) Each appraiser shall be qualified and disinterested and shall have M.A.I. or other comparable professional designation, and the appointment of each appraiser shall only be made by the appointing party following receipt of at least three competitive bids, and if the cost of the appraisal is reasonably expected to exceed $10,000, the appointing party shall utilize the notification procedure set out in Chapter 454, Acts of the 65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes), and all time periods described in this Act shall be extended for the number of days necessary to comply with said notification procedure. The appointing party shall award the appraisal services contract to the bidder submitting the lowest and best bid, and in determining who has submitted the lowest and best bid, the appointing party shall consider the factors set out in Subdivisions (1) through (9) of Subsection (e) of Section 3.11, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes). Expense of the appraisal shall be paid by the division.

(2) Strike Subsections (c) and (d) of Section 4 of the bill, as substituted in floor amendment no. 2, and substitute new Subsections (c) and (d) to read as follows:

(c) The next $18,500,000 is appropriated to the Texas Department of Mental Health and Mental Retardation for the biennium ending August 31, 1987. That amount shall first be used for community center construction and renovation as provided in Section 3.11, Texas Mental Health and Mental Retardation Act (Article 5547-203, Vernon's Texas Civil Statutes), necessary life safety code improvements, and the purchase of land and construction of facilities for a rehabilitation center to replace the one authorized for sale in Section 1 of this Act. Any balance may be used for other construction and improvements as approved by the Texas Board of Mental Health and Mental Retardation, or for residential contract services for juveniles.

(d) Any balance remaining after the preceding allocations are satisfied shall be deposited in the State Treasury to the credit of the General Revenue Fund.

The amendments were read.

Senator Leedom moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Traeger, Truan, Uribe, Whitmire, Williams.

Nays: Barrientos, Mauzy, Sharp, Washington.

VOTE RECONSIDERED BY WHICH SENATE CONCURRED IN HOUSE AMENDMENTS TO SENATE BILL 782

On motion of Senator Jones and by unanimous consent, the Senate reconsidered the vote by which the Senate concurred in House amendments to **S.B. 782.**

Question - Shall the Senate concur in House amendments to **S.B. 782**?

On motion of Senator Jones, the Senate concurred in House amendments to **S.B. 782** by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT SENATE BILL 725

Senator Caperton submitted the following Conference Committee Report:

Austin, Texas
May 26, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 725** 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.

CAPERTON	P. HILL
BLAKE	C. HARRIS
URIBE	MESSER
MONTFORD	EVANS
SARPALIUS	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the membership, terms, administration, powers and duties, and continuation of the Texas Air Control Board, to the authority of the board to set fees and impose administrative penalties, to the creation of the Texas Clean Air Study Committee, and to the authorization for additional motor vehicle emissions inspections, fees, and maintenance programs; providing for notice by applicants and opportunity for hearings; providing enforcement procedures and penalties; amending the Texas Clean Air Act, as amended (Article 4477-5, Vernon's Texas Civil Statutes), by amending Sections 1.02, 2.01a, 2.02, 2.06, 2.15, 2.16, and 3.07, Subsection (c) of Section 3.09, Subsection (e) of Section 3.10, Subsections (a) and (b) of Section 3.14, Subsections (a) and (b) of Section 3.16, Subsection (e) of Section 3.28, Sections 3.20, 3.27, 3.29, 4.01, and 4.02; by adding Sections 2.021, 2.022, 2.023, 2.041, 2.091-2.094, 2.18-2.22, 3.101, and 3.271, Subsections (g) and (h) to Section 3.28, Sections 3.31, 4.041, and 4.042, and Subchapter G; and by repealing Sections 2.10 and 3.21-3.26 and Subsections (a), (b), (c), and (f) of Section 3.30; amending Subsections (d) and (g) of Section 142, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes).

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

SECTION 1. Sections 1.02 and 2.01a, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1.02. POLICY AND PURPOSE. It is the policy of this state and the purpose of this Act to safeguard the air resources of the state from pollution by controlling or abating air pollution and emissions of air contaminants, consistent with the protection of health, general welfare, and physical property of the people, including the esthetic enjoyment of the air resources by the people and the maintenance of adequate visibility. It is intended the provisions of the Act should be vigorously enforced and that violations of the Act or any rule or order of the Texas Air Control Board should result in expeditious initiation of enforcement actions as provided in this Act."

"Section 2.01a. APPLICATION OF SUNSET ACT. The Texas Air Control Board is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1991 [~~1985~~].

"The policy structure and enforcement activities of the board shall be reviewed under the provisions of the Texas Sunset Act prior to January 1, 1987."

SECTION 2. Section 2.02, Texas Clean Air Act, as amended (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2.02. MEMBERS OF THE BOARD. (a) The board is composed of nine members appointed by the governor with the advice and consent of the Senate. Of the nine members appointed by the governor, one shall be a professional engineer with at least ten years experience in the actual practice of his profession which experience shall include work in air control; one shall be a physician licensed to practice in this state, currently engaged in general practice in this state, with experience in the field of industrial medicine; one shall be a person who has been actively engaged in the management of a private manufacturing or industrial concern for at least ten years immediately prior to his appointment; one shall be an agricultural engineer with at least ten years experience in his profession;

and five members must be members of the general public of whom at least one must be a member with a demonstrated involvement in efforts to safeguard the environment [~~shall be chosen to represent the public interest~~].

"(b) A person is not eligible for appointment as a public member if the person or the person's spouse:

"(1) is employed by or participates in the management of a business entity or other organization regulated by the board or receiving funds from the board;

"(2) owns, controls, or has, directly or indirectly, more than a ten percent interest in a business entity or other organization regulated by the board or receiving funds from the board; or

"(3) uses or receives a substantial amount of tangible goods, services, or funds from the board [~~shall be chosen to represent the public interest~~]."

SECTION 3. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.021 to read as follows:

"Section 2.021. APPOINTMENTS WITHOUT DISCRIMINATION. Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees."

SECTION 4. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.022 to read as follows:

"Section 2.022. DISQUALIFICATION OF LOBBYISTS. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the board, may not serve as a member of the board or act as the general counsel to the board."

SECTION 5. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.023 to read as follows:

"Section 2.023. CONFLICTS OF INTEREST. An officer, employee, or paid consultant of a trade association for an industry regulated by the board may not be a member or employee of the board, nor may a person who cohabits with or is the spouse of an officer, managerial employee, or paid consultant of a trade association for an industry regulated by the board be a member of the board or an employee of the board Grade 17 or over, including exempt employees, according to the position classification schedule under the General Appropriations Act."

SECTION 6. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.041 to read as follows:

"Section 2.041. REMOVAL OF BOARD MEMBER. (a) It is a ground for removal from the board if a member:

"(1) does not have at the time of appointment the qualifications required by Section 2.02 of this Act for appointment to the board;

"(2) does not maintain during the service on the board the qualifications required by Section 2.02 of this Act for appointment to the board;

"(3) violates a prohibition established by Section 2.022 or 2.023 of this Act;

"(4) is unable to discharge his duties for a substantial portion of the term for which he was appointed because of illness or disability; or

"(5) is absent from more than one-half of the regularly scheduled board meetings which the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the board.

"(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

"(c) If the executive director has knowledge that a potential ground for removal exists, he shall notify the chairman of the board of such ground. The chairman of the board shall then notify the governor that a potential ground for removal exists.

"(d) The board shall maintain public records sufficient to show continuing eligibility under provisions of this Act."

SECTION 7. Section 2.06, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2.06. BOARD OFFICERS. (a) The governor shall designate a chairman of the board from among the members of the board. A member holds the position of chairman at the pleasure of the governor.

"(b) The board shall elect a [~~chairman and a~~] vice-chairman to serve a two-year term [~~terms~~] beginning on February 1 of each odd-numbered year."

SECTION 8. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.091 to read as follows:

"Section 2.091. CAREER LADDER PROGRAM. The executive director or his designee shall develop an intraagency career ladder program, one part of which shall require the intraagency posting of all nonentry level positions concurrently with any public posting."

SECTION 9. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.092 to read as follows:

"Section 2.092. PERFORMANCE EVALUATION SYSTEM. The executive director or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for board employees must be based on the system established under this section."

SECTION 10. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.093 to read as follows:

"Section 2.093. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The executive director or his designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement shall include:

"(1) personnel policies including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

"(2) a comprehensive analysis of the agency's work force that meets federal and state guidelines;

"(3) procedures by which a determination can be made of significant underutilization in the agency work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

"(4) reasonable methods to appropriately address areas of significant underutilization in the agency work force of all persons for whom federal or state guidelines encourage a more equitable balance.

"(b) The policy statements shall be filed with the governor's office within 60 days of the effective date of this Act, cover an annual period, and be updated at least annually. The governor's office shall develop a biennial report to the legislature based on the information submitted. Such report may be made separately or as a part of other biennial reports made to the legislature."

SECTION 11. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.094 to read as follows:

"Section 2.094. EMPLOYEE QUALIFICATIONS; STANDARDS OF CONDUCT. The board shall provide to its members and employees as often as is necessary information regarding their qualifications under this Act and their responsibilities under applicable laws relating to standards of conduct for state officers or employees."

SECTION 12. Section 2.15, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2.15. [~~BIENNIAL~~] REPORTS. (a) The board shall make biennial written reports to the governor and to the Legislature and shall include in each report a statement of its activities.

"(b) The board shall file annually with the governor and the presiding officer of each house of the Legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding year. The form of the annual report and the reporting time shall be that provided in the General Appropriations Act."

SECTION 13. Section 2.16, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2.16. FEES. Except as specifically authorized in this Act, no fees may be charged by the executive director [~~secretary~~] or the board for the performance of any of their duties and functions under this Act."

SECTION 14. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.18 to read as follows:

"Section 2.18. AUDIT. The State Auditor shall audit the financial transactions of the board at least once during each biennium."

SECTION 15. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.19 to read as follows:

"Section 2.19. PUBLIC INFORMATION. The board shall prepare information of public interest describing the functions of the board and describing the board's procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the general public and appropriate state agencies."

SECTION 16. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.20 to read as follows:

"Section 2.20. COMPLAINT FILE. The board shall keep an information file about each complaint filed with the board relating to a licensee or entity regulated by the board."

SECTION 17. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.21 to read as follows:

"Section 2.21. NOTIFICATION CONCERNING COMPLAINT. If a written complaint is filed with the board relating to a licensee or entity regulated by the board, the board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation."

SECTION 18. Subchapter B, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 2.22 to read as follows:

"Section 2.22. PUBLIC TESTIMONY. The board shall develop and implement policies that will provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board."

SECTION 19. Section 3.07, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3.07. ENFORCEMENT PROCEEDINGS. The board[~~,~~] or the executive director, after notification to [~~secretary when authorized by~~] the board, may cause legal proceedings to be instituted in courts of competent jurisdiction to compel compliance with the provisions of this Act or the rules, [~~regulations,~~] orders, [~~variances~~] or other decisions of the board."

SECTION 20. Subsection (c), Section 3.09, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"(c) Any person may appear and be heard at the hearing on any rules [~~or regulations~~]. A record of the names and addresses of the persons appearing shall be made by the executive director [~~secretary~~]. Any person heard or represented at the

hearing, or requesting notice of the action taken by the board, shall be sent written notice by mail of the action taken by the board."

SECTION 21. Subsection (e), Section 3.10, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"(e) The board, when it deems control of air pollution is necessary, shall establish rules [~~and regulations~~] concerning the control of emissions of particulate matter from plants handling, loading and unloading, drying, manufacturing, and processing the following agricultural products: grain, seed, legumes and vegetable fibers, according to a formula derived from the process weight of the materials entering the process. Any person affected by a rule [~~or regulation~~] issued under the authority of this subsection may use the process weight method for controlling and measuring the emissions from the plant, or any other method selected by that person which the board or the executive director [~~secretary~~], when so authorized by the board, finds will provide adequate emission control efficiency and measurement."

SECTION 22. Subchapter C, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 3.101 to read as follows:

"Section 3.101. MEMORANDUM OF UNDERSTANDING. The board shall adopt as a rule any memorandum of understanding between the board and any other state agency."

SECTION 23. Subsections (a) and (b), Section 3.14, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), are amended to read as follows:

"(a) Whenever it appears to the board or the executive director [~~secretary~~] that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the board or the executive director [~~secretary~~] shall, with the concurrence of the governor, order any persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants. The order shall fix a time and place for a hearing to be held before the board, which shall be held as soon after the order is issued as is practicable. The requirements of Section 3.17 as to the time for notice, newspaper notice, and method of giving a person notice do not apply to such a hearing, but such general notice of the hearing shall be given as in the judgment of the board or the executive director [~~secretary~~] is practicable under the circumstances. Not more than twenty-four hours after the commencement of the hearing, and without adjournment of the hearing, the board shall affirm, modify or set aside the order.

"(b) Whenever the board or the executive director [~~secretary~~] finds that emissions from one or more air contaminant sources are [is] causing imminent danger to human health or safety, but that there is not a generalized condition of air pollution of the type referred to in Subsection (a) of this section, the board or the executive director [~~secretary~~] may order the person or persons responsible for the emissions to reduce or discontinue the emissions immediately. In such event, the provisions in Subsection (a) of this section pertaining to a hearing before the board, notice, and affirmance, modification or setting aside of orders shall apply."

SECTION 24. Subsections (a) and (b), Section 3.16, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), are amended to read as follows:

"(a) The board may delegate the authority to hold hearings called by the board to:

"(1) one or more members;

"(2) the executive director [~~secretary~~]; or

"(3) one or more employees of the board[~~; or~~

"[~~(4) with the concurrence of the state commissioner of health, one or more employees of the State Department of Health~~].

"(b) Except for those hearings required to be held before the board under Section 3.14 of this Act, the board may authorize the executive director [~~secretary~~]

to call and hold hearings on any subject on which the board may hold a hearing. The board also may authorize the executive director [~~secretary~~] to delegate the authority to hold any hearing called by the executive director [~~secretary~~] to one or more employees of the board [~~or, with the concurrence of the state commissioner of health, to one or more employees of the State Department of Health~~]."

SECTION 25. Section 3.20, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3.20. INVESTIGATIONS; ACTION ON VIOLATIONS. (a) The executive director [~~secretary~~] is authorized to make or cause to have made investigations as he may deem advisable in administering the provisions of this Act and the rules, [~~regulations,~~] orders and determinations of the board, including without limitation investigations of violations and general air pollution problems or conditions. The executive director [~~secretary~~] shall make or cause to have made such investigations as may be requested or directed by the board.

"(b) Whenever it appears that any provision of this Act or any rule, [~~regulation,~~] determination or order of the board is being violated, the board, or the executive director [~~secretary~~] when authorized by the board or this Act, may proceed under Section 4.02 of this Act, or hold a public hearing and enter orders on the alleged violation, or take any other action authorized in this Act as the facts may warrant.

"(c) If a public hearing is held on an alleged violation, the board or the executive director [~~secretary~~] shall give notice of the hearing to the person complained against and to such other interested persons as the board or executive director [~~secretary~~] may designate. The executive director [~~secretary~~], on behalf of the board, at the request of the person complained against, shall subpoena and compel the attendance of those witnesses, and shall require the production for examination of any book or paper relating to the matter under investigation at the hearing, as that person may reasonably designate."

SECTION 26. Section 3.27, Texas Clean Air Act, as amended (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3.27. CONSTRUCTION PERMIT. (a) Any person who plans to construct any new facility or to engage in the modification of any existing facility which may emit air contaminants into the air of this State shall apply for and obtain a construction permit from the board before any actual work is begun on the facility. The board may issue special permits to [~~exempt~~] certain facilities. The board by rule may exempt certain [~~or~~] types of facilities from the requirements of Section 3.27 and Section 3.28 if it is found upon investigation that such facilities or types of facilities will not make a significant contribution of air contaminants to the atmosphere.

"(b) In considering the issuance of a permit for construction or modification of any facility within 3,000 feet or less of an elementary, junior high, or senior high school, the board shall consider any possible adverse short-term or long-term side effects that an air contaminant or nuisance odor from the facility may have on the individuals attending these school facilities.

"(c) No person may commence construction on a permanently or temporarily located concrete plant (except a concrete plant located temporarily in the right-of-way of a public works project) that accomplishes wet batching, dry batching, or central mixing under an exemption adopted by the board pursuant to Subsection (a) of this section, without first complying with the notice and opportunity for hearing provisions of Subsections (a) and (c) of Section 3.271 of this Act. For purposes of this subsection, only those persons actually residing in a permanent residence within one-quarter mile of the proposed plant may be a 'person who may be affected' as that term is used in Subsection (c) of Section 3.271 of this Act.

"(d) Along with the application for the permit or the special permit, the person shall submit copies of all plans and specifications necessary for determining whether the proposed construction will comply with applicable air control standards and the intent of the Texas Clean Air Act, together with any other information which the board considers necessary.

"(e) [~~(c)~~] If, from the information available to the board or, if a hearing is held under Subsection (c) of Section 3.271 of this Act, from any information presented at that hearing [~~submitted under subsection (b) of this section~~], the board finds the proposed facility for which a permit or a special permit is sought will utilize at least the best available control technology, with consideration given to the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility and no indication that the emissions from the proposed facility will contravene the intent of the Texas Clean Air Act, including protection of the health and physical property of the people, the board shall grant within a reasonable time a permit to construct or modify the facility. If the board finds that the emissions from the proposed facility will contravene these standards or will contravene the intent of the Texas Clean Air Act, it shall not grant the permit or special permit and shall set out in a report to the applicant its specific objections to the submitted plans of the proposed facility.

"(f) [~~(d)~~] If the person applying for a permit or special permit makes the alterations in his plans and specifications to meet the specific objections of the board, the board shall grant the permit or special permit, but the board may refuse to accept new applications by a person until all previous objections of the board to the previously submitted plans of that person are rectified. If the person fails or refuses to alter the plans and specifications, the board shall refuse to grant the permit or special permit.

"(g) [~~(e)~~] A permit, special permit, or exemption granted under this section may be revoked by the board if the board later determines that any of the terms of the permit, special permit, or exemption are being violated or that emissions from the proposed facility will contravene air pollution control standards set by the board or will contravene the intent of the Texas Clean Air Act.

"Proceedings to revoke the permit may be commenced by the board if any violation at the proposed facility is continued after 180 days following the notice of violation provided pursuant to Subsection (a) of Section 4.02 of this Act. The board may consider good faith efforts to correct the violation in deciding whether to revoke a permit, special permit, or exemption.

"(h) [~~(f)~~] The board or the executive director may seek an injunction in a court of competent jurisdiction to halt work on a facility which is being done without a permit, special permit, or exemption issued under this section or is in violation of the terms of a permit, special permit, or exemption issued under this section.

"(i) [~~(g)~~] The powers and duties set out in Section 3.27 and Section 3.28 may be delegated by the board to the executive director. The applicant or any person affected by the decision of the executive director may appeal to the board any decision made by the executive director under these sections.

"(j) [~~(h)~~] Provided, however, that at the time this Act becomes effective no provision of this Act shall apply where any person, firm, partnership or corporation has let any contract, or begun any construction for any addition, alteration or modification to any new or existing facility. Any contracts under this subsection shall have a beginning construction date no later than six months after the effective date of this Act to qualify for this exemption."

SECTION 27. Subchapter C, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 3.271 to read as follows:

"Section 3.271. NOTICE AND OPPORTUNITY FOR HEARING. (a) Within the period required by board rule, a person applying for a permit or special

permit under Section 3.27 or review of a permit under Subsection (g) of Section 3.28 of this Act shall publish notice of intent to obtain a permit or special permit or permit review at least one time in a newspaper with general circulation in the county in which the facility is located or to be located. Publication of additional notice may be required by board rule. Notice must include:

"(1) a description of the location or proposed location of the facility;

"(2) the fact that a person who may be affected by emissions of air contaminants from the facility or proposed facility is entitled to request a hearing from the board;

"(3) the manner in which the board may be contacted for further information; and

"(4) any other information the board by rule requires.

"(b) At the site of any facility or proposed facility for which a permit application is submitted under Section 3.27 or a review application is submitted under Subsection (g) of Section 3.28 of this Act, the applicant shall place a sign declaring the filing of an application for a permit or review of a permit for a facility at the site and stating the manner in which the board may be contacted for further information. The board shall adopt any rules necessary to carry out this subsection.

"(c) If a person who may be affected by the emissions makes a request for a hearing within the period set for hearing requests by board rules, the board or its delegate must hold a public hearing on the permit, review, or special permit application before granting the permit, continuance, or special permit. The board is not required to hold a hearing if the basis of a request is determined to be unreasonable. In addition, if an elected official from the general area in which the facility or proposed facility is located makes a request for a hearing within the period set for hearing requests by board rules, the board or its delegate must hold a hearing on the permit, review, or special permit application before granting the permit, continuance, or special permit. The board shall give notice of a hearing under this subsection as provided by Section 3.17 of this Act. For purposes of this subsection, elected official means a member of the Texas Legislature."

SECTION 28. Subsection (e), Section 3.28, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended and Subsections (g) and (h) are added to read as follows:

"(e) A permit issued under this section may be revoked by the board if the board later determines that any of the terms of the permit are being violated or that emissions from the facility contravene air pollution control standards set by the board or contravene the intent of the Texas Clean Air Act. Proceedings to revoke the permit may be commenced by the board if any violation at the proposed facility is continued after 180 days following the notice of violation provided pursuant to Subsection (a) of Section 4.02 of this Act. The board may consider good faith efforts to correct the violation in deciding whether to revoke a permit, special permit, or exemption.

"(g) A permit issued pursuant to this section is subject to review every 15 years. The board by rule shall establish a deadline by which the holder of a permit issued under this section shall submit an application for review of the permit, the general requirements which must be met by such applicant, and the procedures for reviewing and acting on applications for review. No less than 180 days prior to the expiration of the 15th year following the issuance or continuation of a permit under this section, the board shall provide by United States Mail, registered or certified, written notice to the holder of the permit that such permit is scheduled for review in accordance with the requirements of this subsection. Such notice shall include a description of the procedure for filing an application for review and the information to be included in the application. In determining whether and under which conditions operating permits should be continued, the board shall consider,

at a minimum, whether the facility is or has been in substantial compliance with the provisions of this Act and the terms of the existing permit and the condition and effectiveness of existing emission control equipment and practices. The board shall impose as a condition for continuance of an operating permit those requirements determined to be economically reasonable and technically practicable considering the age of the facility and the impact of its emissions on the surrounding area. In no event shall the board impose requirements less stringent than those of the existing permit, during this review, unless the board determines that any proposed change will meet the requirements of Section 3.27 of this Act. The board shall either continue a permit or submit to the applicant the report hereinafter required no later than 180 days after the application for review is filed. If the board determines that the facility will not meet the requirements for continuance of the operating permit, it shall set out in a report to the applicant the basis for its determination and establish a schedule to which the applicant must adhere in meeting the board's requirements. The schedule set forth in the report shall include a final date for meeting the board's requirements and shall require completion of such action as expeditiously as possible. If the applicant meets the board's requirements in accordance with the schedule set forth in the report, the board shall continue the permit. If the applicant does not meet the board's requirements corrective action by the final date specified in the board's report, the applicant shall be required to show cause in a contested case proceeding conducted pursuant to the requirements of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) why the permit should not expire immediately. The applicant's permit shall remain effective until the final date specified in the board's report to the applicant or until the existing permit is continued or until the date specified in any order of the board entered following a contested case proceeding held pursuant to this subsection. If the holder of an operating permit to which the board has mailed notice of the requirements of this subsection does not apply for review of that permit by the date specified by the board pursuant to this subsection, the permit shall expire 15 years following the date it was issued or last continued. Nothing in this section shall affect the board's authority to commence enforcement action pursuant to Section 4.02 of this Act.

"(h) Each facility operating without a permit because it was constructed or construction on it had begun before the board's permitting program was implemented shall be registered with the board not later than the 180th day after the effective date of this subsection. The requirements of this subsection shall not apply to oil and gas production and distribution facilities which do not constitute major facilities/stationary sources as defined in the rules of the board, and the board, pursuant to Subsection (a) of Section 3.27 of this Act shall exempt other facilities or types of facilities from the requirements of this subsection if it is determined that such facilities or types of facilities will not make a significant contribution of air contaminants to the atmosphere. The person in charge of the facility shall pay any fees in connection with registration established by the board under Section 3.29 of this Act. For purposes of this subsection and the registration fee required by Section 3.29 of this Act, a registrant may treat two or more facilities which compose an integrated system or process as a single facility where a structure, device, item of equipment, or enclosure which constitutes or contains a given source operates in conjunction with and is functionally integrated with one or more other such structures, devices, items of equipment, or enclosures, provided that in any case sufficient information must be submitted to enable the board to develop an accurate inventory of emissions of air contaminants in the state and to discharge its other duties under this Act. Not later than the 30th day after the effective date of this Act, the board shall publish notice sufficient to inform operators of those facilities of the registration requirement. This notice shall include at a minimum a description of

the types and sizes of facilities required to register, the information to be submitted at registration, and the manner in which the board may be contacted for additional information concerning the applicability of this requirement. The board may require any information it determines is necessary in conjunction with the registration of the facilities. This subsection shall not apply to facilities affected by Subsection (e) of Section 3.10 of this Act, livestock confinement facilities, facilities used solely in conjunction with the operation of a farm or ranch, or facilities of the size and type which would meet the requirements for special permits under Section 3.27 of this Act."

SECTION 29. Section 3.29, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3.29. [~~PERMIT AND VARIANCE~~] FEES. (a) The board shall adopt, charge, and collect a fee for each application for a permit, permit amendment or revision, or special permit submitted under Section 3.27 or a registration submitted under Subsection (h) of Section 3.28 of this Act, for each application for review of a permit under Subsection (g) of Section 3.28 of this Act, and for inspections performed in enforcement of this Act or rules adopted by the board under this Act. For purposes of such fees, the board shall treat two or more facilities which compose an integrated system or process as a single facility where a structure, device, item of equipment, or enclosure which constitutes or contains a given stationary source operates in conjunction with and is functionally integrated with one or more other such structures, devices, items of equipment, or enclosures. Fees assessed under this section shall not be less than $50 nor more than $50,000.

"(b) The amount of the fees shall be established by board rule and must be set so that the board can recover not less than 50 percent of the actual annual expenditures by the board in:

"(1) reviewing and acting on permits or special permits;

"(2) amending and reviewing permits;

"(3) inspecting permitted, exempted, specially permitted, and registered facilities; and

"(4) enforcing the rules and orders adopted and permits, special permits, and exemptions issued under this Act.

"(c) Nothing in this Act shall be construed as prohibiting the use of variances. Variances are to be considered an exceptional form of relief to be granted only upon the demonstration that compliance with any provision of this Act or rule or order of the board will result in an arbitrary and unreasonable taking of property [~~may adopt rules relating to charging and collecting fees for permits and variances, including schedules of fees to be charged. The fees shall be sufficient to cover the reasonable costs of review and action by the board on a permit or variance application and of implementing and enforcing the terms and conditions of the permit or variance. Fees adopted under this section shall be not less than $50 nor more than $7,500~~].

SECTION 30. Subchapter C, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Section 3.31 to read as follows:

"Section 3.31. FACILITY. The term 'facility' as used in this Act means any discrete or identifiable structure, device, item or equipment, or enclosure which constitutes or contains a given stationary source, as defined in Subdivision (2) of Section 1.03 of this Act, together with any appurtenances. Emission control equipment shall not be considered appurtenances. Mines, quarries, and roads shall not be considered facilities."

SECTION 31. Section 4.01, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 4.01. UNAUTHORIZED EMISSIONS PROHIBITED. (a) Except as authorized by a rule[~~, regulation, variance~~] or [~~other~~] order of the board, no

person may cause, suffer, allow or permit the emission of any air contaminant or the performance of any activity which causes or contributes to, or which will cause or contribute to, a condition of air pollution.

"(b) No person may cause, suffer, allow or permit the emission of any air contaminant or the performance of any activity in violation of this Act or of any rule[~~, regulation, variance,~~] or [~~other~~] order of the board.

"(c) Any person who violates any provision of this Act or of any rule[~~, regulation, variance,~~] or [~~other~~] order of the board is subject to a civil penalty of not less than $50 nor more than $25,000 [~~$1,000~~] for each day of violation and for each act of violation, as the court or jury may deem proper, to be recovered in the manner provided in this Subchapter."

SECTION 32. Section 4.02, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 4.02. ENFORCEMENT BY SUIT [~~BOARD~~]. (a) Whenever the executive director finds that a person has violated, is violating, or threatening to violate any provision of this Act or of any rule or order of the board, he shall within five days notify that person of the apparent violation and:

"(1) the board or the executive director may cause a suit to be instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation or for the assessment and recovery of a civil penalty of not less than $50 nor more than $25,000 for each day of violation and for each act of violation, as the court may deem proper, or for both injunctive relief and civil penalty;

"(2) notwithstanding the authority conferred in Subdivision (1) of Subsection (a) of this section, if the apparent violation or threat of violation of a nonclerical requirement continues more than 30 days after receipt of the notice provided pursuant to this section, the executive director shall institute proceedings pursuant to Subsection (b) of Section 3.20 of this Act to enter an appropriate order providing for compliance within 180 days of the notice of violation. However, if the board determines that good faith efforts to correct the violation have been made, the board may adopt an order pursuant to Subsection (b) of Section 3.20 of this Act providing for compliance beyond 180 days after issuance of the notice of violation. It is intended that good faith effort be strictly interpreted by the board while giving due consideration to economic reasonableness and technical practicability; and

"(3) notwithstanding the authority conferred in Subdivision (1) of Subsection (a) of this section, if a violation of an order entered pursuant to Subdivision (2) of Subsection (a) continues for more than 180 days following the receipt of the original notice of violation, the board or executive director shall (i) institute a suit, as described in Subdivision (1) of Subsection (a) of this section, for civil penalties and appropriate injunctive relief and/or commence an action under either Subsection (f) of Section 3.27 or Subsection (e) of Section 3.28 of this Act to revoke a permit, special permit or exemption, and/or (ii) commence an action for administrative penalties pursuant to Section 4.041 of this Act. If the apparent violation or threat of violation would materially affect human health and safety, the suit shall be instituted immediately. [~~it appears that a person has violated or is violating, or is threatening to violate any provision of this Act or of any rule, regulation, variance or other order of the board, then the board, or the executive secretary when authorized by the board, may cause a civil suit to be instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than $50 nor more than $1,000 for each day of violation and for each act of violation, as the court may deem proper, or for both injunctive relief and civil penalty. Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Act or of any rule, regulation, variance~~

~~or other order of the board, the district court shall grant the injunctive relief the facts may warrant.~~]

"(b) At the request of the board[;] or the executive director [~~secretary when authorized by the board~~], the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both injunctive relief and penalty, as authorized in Subsection (a) of this section.

"(c) Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Act or of any rule or order of the board, the district court shall grant the injunctive relief the facts may warrant.

"(d) The agency shall prepare a monthly report on enforcement actions taken and the resolution of such actions. The report shall be an agenda item for discussion by the board at each regularly scheduled meeting. When an enforcement action involves a suit filed for injunctive action or civil penalties or both, the report shall indicate the actual or projected time for resolution of the suit. Copies of the report and minutes of the meeting reflecting any action taken by the board in regards to the report shall be filed with the governor and the attorney general."

SECTION 33. Subchapter D, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Sections 4.041 and 4.042 to read as follows:

"Section 4.041. ADMINISTRATIVE PENALTY. (a) If a person violates this Act or a rule or order adopted or permit issued under this Act, the person may be assessed a civil penalty as provided by this section.

"(b) The penalty may be in an amount not to exceed $10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

"(c) In determining the amount of the penalty, the board shall consider:

"(1) the seriousness of the violation, including but not limited to the nature, circumstances, extent, and gravity of the prohibited acts; and the hazard or potential hazard created to the health or safety of the public;

"(2) the history of previous violations;

"(3) the amount necessary to deter future violations;

"(4) efforts to correct the violation; and

"(5) any other matters that justice may require.

"(d) If, after examination of a possible violation and the facts surrounding that possible violation, the executive director concludes that a violation has occurred, the executive director may issue a preliminary report stating the facts on which he based the conclusion that a violation occurred, recommending that a civil penalty under this section be imposed on the person charged, and recommending the amount of that proposed penalty. The executive director shall base the recommended amount of the proposed penalty on the seriousness of the violation determined by consideration of the factors set forth in Subsection (c) of this section.

"(e) Not later than the 10th day after the date on which the report is issued, the executive director shall give written notice of the report to the person charged. The report shall include a brief summary of the charges, a statement of the amount of the penalty recommended, and a statement of the right of the person charged to a hearing on the occurrence of the violation or the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

"(f) Not later than the 20th day after the date on which notice is received, the person charged either may give to the board written consent to the executive director's report, including the recommended penalty, or may make a written request for a hearing.

"(g) If the person charged with the violation consents to the penalty recommended by the executive director or fails to timely respond to the notice, the

board by order shall either assess that penalty or order a hearing to be held on the recommendations in the executive director's report. If the board assesses the penalty recommended by the report, the board shall give written notice to the person charged of its decision and the person charged shall pay the penalty.

"(h) If the person charged requests or the board orders a hearing, the executive director shall call a hearing and give notice of the hearing as provided by Section 3.17 of this Act. The hearing shall be held by a hearing examiner designated by the board. The hearing examiner shall make findings of fact and promptly issue to the board a written decision as to the occurrence of the violation and a recommendation as to the amount of the proposed penalty if a penalty is warranted. Based on the findings of fact and recommendations of the hearing examiner, the board by order may find a violation has occurred and may assess a civil penalty or may find that no violation has occurred. All proceedings under this subsection are subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

"(i) The board shall give notice of its decision to the person charged, and if the board finds that a violation occurred and a civil penalty has been assessed, the board shall give to the person charged written notice of its findings, of the amount of the penalty, and of his right to judicial review of the board's order. If the board finds that a violation occurred and a civil penalty has been assessed, the board shall also publish notice of these decisions in the Texas Register within 10 days.

"(j) Within the 30-day period immediately following the day on which the order is final as provided by Subsection (c), Section 16, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), the person charged with the penalty shall:

"(1) pay the penalty in full; or

"(2) if the person files a petition for judicial review of either the amount of the penalty or the fact of the violation or of both the fact of the violation and the amount of the penalty:

"(A) forward the amount to the board for placement in an escrow account; or

"(B) in lieu of payment into escrow, post with the board a supersedeas bond in a form approved by the board for the amount of the penalty, the bond to be effective until all judicial review of the order or decision is final.

"(k) Failure to forward the money to or to post the bond with the board within the time provided by Subsection (j) of this section results in a waiver of all legal rights to judicial review. Also, if the person charged fails to forward the money or post the bond as provided by Subsection (g) or (j) of this section, the board or the executive director may forward the matter to the attorney general for enforcement.

"(l) Judicial review of the order or decision of the board assessing the penalty shall be under the substantial evidence rule and shall be instituted by filing a petition with a district court in Travis County, as provided by Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

"(m) If the penalty is reduced or not assessed, the board shall remit to the person charged the appropriate amount plus accrued interest if the penalty has been paid or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the board under this subsection shall be paid at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank and shall be paid for the period beginning on the date the penalty is paid to the board under Subsection (j) of this section and ending on the date the penalty is remitted.

"(n) A penalty collected under this section shall be deposited in the State Treasury to the credit of the General Revenue Fund.

"(o) Payment of an administrative penalty under this section shall be full and complete satisfaction of the violation for which the administrative penalty is assessed and shall preclude any other civil or criminal penalty for the same violation.

"Section 4.042. REMEDIES SUPPLEMENTAL. The remedies provided in this Act to prevent, abate, or penalize violations of the board's rules, orders, or permits or the causing of or contributing to a condition of air pollution are supplemental of all other causes of actions and remedies available to the state at common law or by other statutes."

SECTION 34. The Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Subchapter G to read as follows:

"SUBCHAPTER G. CLEAN AIR STUDY COMMITTEE

"Section 7.01. CLEAN AIR STUDY COMMITTEE. The Clean Air Study Committee is created.

"Section 7.02. COMPOSITION. The committee is composed of:

"(1) four members appointed by the governor, three of whom are representatives of business or industry and one of whom is a representative of the general public who has a background with a demonstrated involvement in efforts to safeguard the environment;

"(2) three members appointed by the lieutenant governor, two of whom are state senators and one of whom is a representative of the general public who has a background with a demonstrated involvement in efforts to safeguard the environment; and

"(3) three members appointed by the speaker of the house of representatives, two of whom are state representatives and one of whom is a representative of the general public who has a background with a demonstrated involvement in efforts to safeguard the environment.

"Section 7.03. CHAIRMAN. The governor shall appoint the chairman of the committee.

"Section 7.04. MEETINGS. The committee shall meet at least quarterly and at other times at the call of the chair.

"Section 7.05. POWERS AND DUTIES. (a) The committee shall study:

"(1) facilities that emit contaminants into the air and that have been allowed to operate without permits from the board because they were constructed or construction on them had begun before the board's permitting program was implemented;

"(2) the issuance of renewable permits; and

"(3) regulation of emissions into the air from ships.

"(b) Not later than December 1, 1986, the committee shall complete and have ready to submit a report to the 70th Legislature. The report shall include the committee's recommendation on whether or not to require operating permits for continued operation of facilities that have been operating without permits because they were constructed or construction on them had begun before the board's permitting program was implemented. If the committee recommends that operating permits be required, the committee also shall discuss procedures under which those facilities may be issued a permit. In addition, the committee shall review and make recommendations concerning the issuance of renewable permits, the length of each renewal period, and the procedure for renewal of a permit. The committee also shall include a recommendation on whether or not to regulate emissions into the air from ships under this Act. Finally, the committee shall include a discussion of the options it considered in making its recommendations. The committee shall accompany each of its recommendations with a discussion of the effect of that recommendation on:

"(1) air quality;

"(2) the regulated industry; and

"(3) the board's regulatory authority, including any additional resources the board would require to implement and carry out the recommendation.

"(c) The board shall develop and implement a continuing data collection system for identifying each facility operating without an operating permit because it was constructed or construction on it had begun before the board's permitting program was implemented and for collecting data on emissions from those facilities. Owners and operators of the facilities shall cooperate with and assist the board in obtaining data. The board shall provide to the committee and shall submit to the 70th Legislature a report on information collected through the data collection system, including a listing by legislative district of facilities operating without an operating permit.

"(d) The board shall provide staff for the committee as necessary to assist the committee in the performance of its duties.

"Section 7.06. EXPIRATION. This subchapter expires January 1, 1987."

SECTION 35. Subsections (d) and (g), Section 142, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), are amended to read as follows:

"(d) The Public Safety Commission shall establish a parameter motor vehicle emissions inspection and maintenance program for vehicles registered in any county in this state which does not meet National Ambient Air Quality Standards and for which the Texas Air Control Board has adopted a resolution requesting the department to institute such a program. The commission may establish any other motor vehicle emissions inspection and maintenance program required by federal law or by a rule or order adopted under federal law."

"(g) The Public Safety Commission may establish by rule an inspection fee in addition to the fee for compulsory inspection as provided by Subsection (c) of Section 141 of this Act for those vehicles inspected pursuant to Subsection (d) of this section. The[~~, and such~~] additional fee shall not exceed $5 if only a parameter program is established and may not exceed $10 if a program other than the parameter program is established under federal requirements."

SECTION 36. Section 2.10, Sections 3.21 through 3.26, and Subsections (a), (b), (c), and (f) of Section 3.30, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), are repealed.

SECTION 37. This Act takes effect September 1, 1985, except Subsection (b) of Section 3.27, as added by Section 26 of this Act, takes effect immediately.

SECTION 38. The chairman of the Texas Air Control Board shall be designated as provided by Section 2.06, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), as amended by this Act, beginning either with the expiration of the term of the chairman serving on the effective date of this Act or with the occurrence on or after the effective date of this Act of a vacancy in the office of chairman, whichever occurs first. Until that time, the chairman serves as provided by Section 2.06 as it existed before amendment by this Act and that law is continued in effect for that purpose.

SECTION 39. Except for the provisions in Subsection (b) of Section 3.27, as added by Section 26 of this Act, the changes in law made by this Act by amending Section 3.27 and adding Section 3.271 of this Act apply only to an application for a permit for operation, construction, or modifications of a facility that may emit contaminants into the air if the application is filed on or after the effective date of this Act. An application for a permit filed before the effective date of this Act is governed by the Texas Clean Act (Article 4477-5, Vernon's Texas Civil Statutes) as it existed before amendment by this Act and that law is continued in effect for that purpose.

SECTION 40. The changes in law made by this Act by amending Sections 4.01 and 4.02, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), and by adding Section 4.041, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), apply only to the penalty for a violation occurring on or after the effective date of this Act. A violation occurring before the effective date of this Act is governed by the law that was in effect when the violation occurred.

SECTION 41. 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 was filed with the Secretary of the Senate.

SENATE BILL 1355 WITH HOUSE AMENDMENT

Senator Blake called **S.B. 1355** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment - Messer

Amend **S.B. 1355** by adding a new Section 2 to read as follows and renumbering existing Section 2 accordingly.

SECTION 2. (a) The legislature endorses the general plan of the State Purchasing and General Services Commission for the establishment of a Sesquicentennial Monument Park in Austin as part of the North Congress Beautification Project on state properties along Congress Avenue from the Capitol north to Martin Luther King, Jr., Boulevard, to be the site of the Sesquicentennial Monument designed by sculptor Robert Summers, to be dedicated in the fall of 1986, and to be funded almost entirely from private donations.

(b) It is the intent of the legislature that the State Purchasing and General Services Commission pursue further preconstruction design work, using available existing funds and resources, for the Sesquicentennial Monument Park according to the general plan of the commission.

The amendment was read.

Senator Blake moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

(President in Chair)

OATH OF OFFICE ADMINISTERED TO SENATOR-ELECT GREEN

The President announced the time had arrived for the oath of office to be administered to Senator-elect Gene Green of Houston.

THE STATE OF TEXAS

THIS IS TO CERTIFY, That at a special election held on May 18, 1985

GENE GREEN

was duly elected

STATE SENATOR

DISTRICT 6

In testimony whereof, I have hereunto signed my name and caused the Seal of State to be affixed at the City of Austin, this the 24th day of May A.D., 1985.

/s/Mark White
Governor of Texas

Attest:

/s/Myra McDaniel
Secretary of State

The Houston delegation escorted Representative Green, Mrs. Green and their son and daughter to the President's rostrum.

MESSAGE FROM THE GOVERNOR

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

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

May 27, 1985

Pursuant to Article X, Section Y of the Constitution of Texas, I hereby veto House Bill 2525 because of the following objections:

This bill seeks to abolish all Place Two Justice of the Peace precincts in the State of Texas. The effect of this bill would be to place into immediate unemployment one distinguished state senator from Houston.

Contrary to the sentiment expressed by his venerable colleagues in the Texas Senate, I believe that the distinguished state senator's future employment opportunity should not be extinguished.

Furthermore, as Governor of the State of Texas, I believe in encouraging full employment and diversifying job opportunities for former legislators to include more than that of lobbyist.

Therefore, I veto **H.B. 2525**.

Respectfully,

/s/Mark White
Governor of Texas

The Honorable Jim Wallace, Associate Justice of the Supreme Court of Texas, administered the oath of office to Gene Green, newly-elected Senator from Harris County.

Senator Green addressed the Senate.

SENATE RESOLUTION 589

Senator Green offered the following resolution:

WHEREAS, The Honorable Lindon Williams, a 10-year veteran senator who has served his Harris County constituents in District 6 ably and with distinction, has resigned his State Senate position and has been appointed as a Harris County Justice of the Peace; and

WHEREAS, Born in Broaddus in San Augustine County, he lived on his family's farm for 17 years and graduated from Broaddus High School, where he served as captain of the winning high school basketball team and president of his senior class; and

WHEREAS, This fine Texan attended South Texas Junior College and the University of Houston and is a distinguished veteran of the Korean War; he is also an independent businessman with diversified interests; and

WHEREAS, Actively involved in a wide range of community endeavors, he has served as counselor for the Boy Scouts and Little League, as a member of the Board of Directors of the YMCA, as State Legislative Chairman of the American Legion, Veterans of Foreign Wars, and Disabled American Veterans of Texas, and he is a member of the Elks and Eagles and is a 33rd degree Mason; and

WHEREAS, First elected to the Texas Legislature in 1966, he served for eight years in the House of Representatives before beginning his service in the Senate in 1975; and

WHEREAS, While a member of the Legislature, he was a strong advocate for measures relating to veterans, teachers, senior citizens, firemen, policemen, fishermen, National Guardsmen, city and county officers, and physicians; and

WHEREAS, He is continuing his illustrious career in public service in his new position of Justice of the Peace, but he will be missed by his friends and colleagues in the State Capitol; now, therefore, be it

RESOLVED, That the Senate of the 69th Legislature of the State of Texas hereby commend former State Senator Lindon Williams and congratulate him on his new position as Harris County Justice of the Peace; and, be it further

RESOLVED, That an official copy of this resolution be prepared for The Honorable Lindon Williams as an expression of highest esteem and best wishes from the Texas Senate.

The resolution was read and was adopted.

COMMITTEE ASSIGNMENTS

The President announced the following committee assignments:

Senator Green will serve on the following Senate Standing Committees:

Education
Intergovernmental Relations
Jurisprudence

Senator Whitmire will serve on Natural Resources Committee instead of the Jurisprudence Committee.

Senator Montford will serve as Vice-Chairman of the Natural Resources Committee.

RECESS

On motion of Senator Green, the Senate at 12:11 o'clock p.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 Senator Blake.

SENATE BILL 1415 WITH HOUSE AMENDMENT

Senator Harris called **S.B. 1415** from the President's table for consideration of the House amendment to the bill.

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

Committee Amendment - Gavin

Committee Substitute for **S.B. 1415**

A BILL TO BE ENTITLED
AN ACT

amending Article 11.01 and Article 11.20, Insurance Code of Texas, relating to converting, consolidating and merging a mutual life insurance company.

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

Section 1. Subsection (c) of Section 2 of Article 11.01, Insurance Code of Texas, as amended, is amended to provide as follows:

(c) Any mutual life insurance company [~~heretofore~~] organized or operating under the provisions of Chapter 11 of this Code may convert into a stock legal reserve life insurance company subject to the following conditions:

1. The capital and surplus of such converted stock legal reserve life insurance company shall be not less than the minimum capital and surplus required for the organization of a stock legal reserve life insurance company under the provisions of Chapter 3 of this Code, as amended, and if necessary in order to meet such minimum capital and surplus requirements, contributions of cash of the United States shall be made prior to the effective date of such conversion; [~~There shall be contributed in cash of the United States the sum of not less than Fifty Thousand ($50,000.00) Dollars in capital and not less than Twenty-five Thousand ($25,000.00) Dollars in surplus, which contributed capital and surplus shall be in addition to all assets of such company at the date of conversion;~~]

2. Such conversion shall only be made [~~on a~~] upon receiving the affirmative vote of at least two-thirds (2/3) of the votes cast in person or by proxy by the policy holders of such company at a meeting called for such purpose. Pursuant to such policy holder authorization, the Board of Directors and officers of such mutual legal reserve life insurance company shall amend its existing charter or articles of incorporation so as to comply with the requirements of Article 3.02 of this Code, as amended;[~~, except as to the capital and surplus requirements thereof;~~] provided that nothing contained herein shall be deemed to prohibit such company from converting to a stock legal reserve life insurance company by merger or consolidation, by a total direct or assumption reinsurance agreement, or by such other plan or procedure as may be approved by the policy holders and the Commissioner of Insurance;

3. Upon [~~After~~] compliance with the provisions hereof and approval of the proposed conversion by the Commissioner [~~State Board~~] of Insurance, following public notice and hearing at which any policy holder shall have the right to appear and be heard, such mutual life insurance company shall be and become a legal reserve stock life insurance company;[~~, except that such company so converted shall not: (1) insure any life for more than Five Thousand ($5,000.00) Dollars in event~~

~~of death; nor (2) declare or pay any cash dividend unless and until the capital and surplus of such stock legal reserve life insurance company shall be increased to not less than the minimum capital and surplus required for the organization of a stock legal reserve life insurance company under the provisions of Chapter 3 of this Code as amended;~~]

[~~4. Any such company so converted shall within ten years from the date of its conversion increase its capital and surplus to not less than the minimum capital and surplus then required to organize a stock legal reserve life insurance company under the provisions of Chapter 3 of this Code, or its certificate of authority to do business shall be revoked by the State Board of Insurance;~~]

4. [~~5.~~] From and after the date of such conversion such stock legal reserve life insurance company shall be governed by the provisions of Chapter 3 of this Code, as amended, except as otherwise herein provided.

Section 2. Article 11.20, Texas Insurance Code, as amended, is amended to provide as follows:

Article 11.20. Mergers and Consolidations

Sec. 1. Any [~~two or more~~] domestic or foreign mutual life insurance company [~~companies~~] may merge [~~into one of such companies~~] with any mutual or stock legal reserve life insurance company, domestic or foreign, or consolidate into either a new mutual or stock life insurance company, domestic or foreign, by compliance with the procedures provided in this Article.

Sec. 2. When it shall be determined by a majority vote of the Board of Directors, respectively, of two or more of such [~~mutual~~] life insurance companies, at least one of which must be a mutual life insurance company, to either merge or consolidate, said Boards of Directors shall prepare a plan of merger or consolidation, as the case may be, and file such plan with the Commissioner of Insurance for approval. Such plan may contain provisions for future apportionment of then existing or prospective accumulations, or both, of divisible surplus, or any other equitable arrangement, whereby the equitable interests, if any, of affected policyholders of the mutual life insurance company may be adjusted.

Sec. 3. As soon as practicable after such filing, the Commissioner of Insurance shall hold a hearing on the question of whether he should approve such plan. As soon as practicable after such hearing, said Commissioner shall approve such plan unless he finds that such plan:

(1) is contrary to law, or

(2) effectuation of such plan would not be in the best interest of the policyholders of any [~~one or more domestic~~] mutual life insurance company which is a party to such plan, or

(3) effectuation of such plan would substantially reduce the security of or service to be rendered to policyholders, whether residents of this state or elsewhere, of any [~~domestic~~] mutual insurance company which is a party to such plan.

In making such decision, the Commissioner of Insurance may consider all facts, elements, matters and financial conditions relating thereto, including but not limited to past, present and prospective operations and accumulations of said companies desiring to merge or consolidate.

If the Commissioner of Insurance disapproves such plan, he shall within a reasonable time after such hearing specify in detail his reasons therefor and so notify all of the parties to such plan. If the Commissioner of Insurance approves such plan, he shall so notify all of the parties thereto, whereupon each board of directors of each [~~domestic~~] company party thereto shall proceed to submit such plan for adoption or rejection to its respective policyholders or shareholders, as the case may be, as hereinafter provided.

Sec. 4. As soon as practicable after receipt of notice of approval of a plan of merger or consolidation to which a company is a party, each [~~domestic~~] mutual life

insurance company which is a party thereto shall cause such plan to be submitted to a vote of its policyholders at a meeting thereof, which meeting may be either an annual or a special meeting. Written or printed notice shall be given to each policyholder, addressed to his last known address, in accordance with the applicable bylaws, but not less than fifteen (15) days before such meeting. And each such notice shall specifically state that at least one of the purposes of such meeting is to vote upon such plan, a copy of which shall accompany such notice. At each such meeting of policyholders of a domestic mutual life insurance company which is a party to such plan, each policyholder shall[:] (i) be entitled to a number of votes determined as provided in Article 11.04 of this Chapter of this Code, and (ii) may vote in person, by proxy to whomever the policyholder may designate in writing, or by mailed ballot. The plan of merger or consolidation shall be considered approved by the policyholders of such company upon receiving the affirmative vote of at least two-thirds (2/3) of the votes cast at such meeting on such question.

Sec. 5. (a) Upon the required approval of such plan (i) by the policyholders of each domestic mutual life insurance company which is a party to such plan [~~and~~], (ii) by the shareholders of each domestic stock life insurance company which is a party to such plan in like mode and manner as is required under Section 2 of Article 21.25 of this Code, and (iii) if one or more foreign life insurance companies is a party thereto, upon the approval thereof by its policyholders or shareholders, as the case may be, in compliance with such foreign law or laws as may be applicable thereto, the president or a vice-president and the secretary or an assistant secretary of each company which is a party to such plan shall execute and file with the Commissioner of Insurance an affidavit that such plan has been approved as herein required.

(b) If the Commissioner of Insurance finds that such affidavit conforms to law, he shall endorse thereon the word "Filed," and the date of filing thereof; and

(1) if the plan be a plan of merger, the Commissioner shall then execute and deliver a Certificate of Merger to the surviving company or its representative; or

(2) if the plan be a plan of consolidation, the Commissioner shall execute and deliver a Certificate of Consolidation to the new company when such new company shall be issued a charter and license upon submission of proper articles of incorporation to the Commissioner of Insurance, and upon his approval [~~together with approval of the Attorney General~~] in accordance with the procedure [~~now~~] required for the issuance of a new charter, and proof that the new company has surplus as regards policyholders of not less than the surplus as regards policyholders of the mutual life insurance company involved in such merger or consolidation having the largest surplus.

Sec. 6. Upon the issuance by the Commissioner of a Certificate of Merger or Consolidation, as the case may be, the merger or consolidation referred to in such certificate shall thereupon be deemed effective unless some subsequent date be specifically stated as the effective date thereof in the plan therefor.

Sec. 7. As of the time that such merger or consolidation is deemed effective:

(1) All policies of insurance outstanding against any company so merged or consolidated shall be deemed to be assumed by the new or surviving [~~mutual~~] life insurance company on the same terms and under the same conditions as if such policies had continued in force against the original issuer thereof and the new or surviving company shall carry out the terms of such policies and be entitled to all the rights and privileges thereof and the reserves and surplus accumulating on such policy prior to such merger or consolidation, with the exception that policies in a mutual life insurance company shall not be entitled to any voting privileges or rights in a new or surviving stock life insurance company, if that is the circumstance.

(2) All the rights, franchises and interests of the companies so merged or consolidated, in and to every species of property, real, personal and mixed, and the things in action thereunto belonging, shall be deemed as transferred to and vested

in the surviving or new [~~mutual~~] life insurance company, without any other deed or transfer,[;] and simultaneously therewith the surviving or new [~~mutual~~] life insurance company shall be deemed to have assumed all of the liabilities of the merged or consolidated companies;

(3) All investments of each [~~mutual~~] life insurance company which was a party to such merger or consolidation that were authorized when made by the laws of the state in which such [~~mutual~~] life insurance company was organized, as proper securities or assets, including real property, for investment of the funds of such [~~any mutual~~] life insurance company and which investments are taken over by the surviving or new company by virtue of such merger or consolidation under the provisions of this Article [~~Act~~], shall be, under the laws of this state, considered as valid securities or assets, including real property, of such new or surviving company, provided such investments are approved by the Commissioner of Insurance in this state, and the same are taken over on terms satisfactory to said Commissioner; provided, however, that in the event the new or surviving company acquires by virtue of such merger or consolidation real estate or property beyond or in excess of that permitted by the applicable Articles pertaining to owning or holding real estate, such company shall sell or dispose of all such excess real estate within the time specified in such applicable Articles unless it shall procure a certificate from said Commissioner that the interest of such company will materially suffer from the forced sale or disposition thereof, in which event the time for the sale or disposition thereof may be extended to such time as the Commissioner of Insurance shall direct in such certificate. Provided further, that this Section will not preclude the designation and use of such acquired excess real estate as branch offices in accordance with the applicable provisions of this Code.

(4) In those cases where the surviving or new company following a merger or consolidation is a mutual life insurance company, [~~T~~]the divisible surplus of each domestic mutual life insurance company which is a party to such merger or consolidation which was available for apportionment to policyholders in accordance with the provisions of Article 11.12 of this Chapter of this Code immediately prior to the effectiveness of such merger or consolidation shall continue to be available to the policyholders of the surviving or new mutual life insurance company in accordance with the provisions of such Article.

Sec. 8. Nothing herein shall be construed as affecting, modifying, amending or repealing in any manner the Anti-Trust Statutes of this state.

Sec. 9. The provisions of this Article shall only apply to mergers and consolidations in which at least one of the parties thereto is a mutual life insurance company. Mergers and consolidations between two or more stock insurance corporations in which no mutual life insurance company is a party thereto shall be governed by Article 21.25 of this Code.

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.

Senator Harris moved to concur in the House amendment.

The motion prevailed.

SENATE CONFEREES DISCHARGED ON HOUSE BILL 402

On motion of Senator Harris and by unanimous consent, the Conference Committee on **H.B. 402** was discharged.

SENATE BILL 1409 WITH HOUSE AMENDMENTS

Senator Traeger called **S.B. 1409** 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 - Hall

Substitute the following for **S.B. 1409**, as engrossed:

A BILL TO BE ENTITLED
AN ACT

relating to the exemption from sales tax of certain tangible personal property and to proof required under the Sales Tax Act to show that items have been exported outside the territorial limits of the United States; amending Section 151.307 and 151.330, Tax Code.

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

SECTION 1. Sec. 151.307, Tax Code, is amended to read as follows:

Sec. 151.307. EXEMPTIONS REQUIRED BY PREVAILING LAW. (a) Tangible personal property or service that this state is prohibited from taxing by the law of the United States, the United States Constitution, or the Constitution of Texas is exempted from the taxes imposed by this chapter.

(b) When an exemption is claimed because tangible personal property is exported beyond the territorial limits of the United States, proof of export may be shown only by:

(1) a bill of lading issued by a licensed and certificated carrier of persons or property showing the seller as consignor, the buyer as consignee, and a delivery point outside the territorial limits of the United States;

(2) documentation provided by a licensed United States Customs Broker certifying that delivery was made to a point outside the territorial limits of the United States;

(3) import documents from the country of destination showing that the property was imported into a country other than the United States; or

(4) an original airway, ocean or railroad bill of lading and a forwarder's receipt if an air, ocean, or rail freight forwarder takes possession of the property.

SECTION 2. Subsection (a), Section 151.330, Tax Code, is amended to read as follows:

(a) The sale of tangible personal property that under the sales contract is shipped to a point outside this state is exempted from the sales tax imposed by Subchapter C of this chapter if the shipment is made by the seller by means of:

(1) the facilities of the seller;

(2) delivery by the seller to a carrier for shipment to a consignee at a point outside this state; or

(3) delivery by the seller to a [~~customs broker or~~] forwarding agent for shipment to a location in another state of the United States or its territories or possessions [~~outside this state~~].

SECTION 3. Section 151.330, Tax Code, is amended by adding a new Subsection (g) to read as follows:

(g) If, pursuant to Subdivision (2) of Subsection (a) of this section a delivery is made to a carrier for shipment to a location outside the United States, then the seller must maintain the same documents required by Section 151.307(b) of this chapter.

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.

Floor Amendment - Jackson

Amend **C.S.S.B. 1409** by inserting the following new section and renumbering sections appropriately:

SECTION _____. Section 4(a), Texas World Trade Development Act, as enacted by **H.B. 809**, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

(a) The Texas World Trade Council is created. The council is composed of the commissioner of agriculture, the chairman of the Texas Economic Development Commission, the chairman of the Texas Tourist Development Agency, [~~the chairman of the Texas Coastal and Marine Council,~~] and 12 [~~11~~] members appointed by the governor with the advice and consent of the senate. Of the governor's appointees, one must be the owner or manager of a small business who has experience in exporting, two must be representatives of institutions of higher education having programs of education in international business, seven [~~six~~] must be persons of recognized ability and experience in an aspect of international commerce, such as trade, transportation, law, finance, agriculture, manufacturing, real estate, labor, maritime business, or port, airport, or trade zone management, one must be the chairman of the North Texas District Export Council of the United States Department of Commerce, and one must be the chairman of the South Texas District Export Council of the United States Department of Commerce. In making the appointments the governor shall ensure that all regions of the state are represented. A member not appointed to the council by the governor may designate a person to represent the member in council business.

The amendments were read.

Senator Traeger moved to concur in the House amendments.

The motion prevailed.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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.C.R. 176, Relating to **S.B. 772**, Acts of the 68th Legislature.

S.C.R. 90, Directing the Texas Department of Agriculture to study the feasibility of providing tax incentives that encourage donations to food banks and incentives that encourage the transportation of foodstuffs to food banks.

S.C.R. 186, Resolving to suspend Rule 14, Section 9(a) of the Rules of the House of Representatives, Rule 96(a) of the Rules of the Senate in order to adjust the differences between the House and the Senate versions of **S.B. 192**, relating to the conveyance of certain State owned real property by the Texas Board of Corrections.

S.C.R. 121, Directing the Texas Department of Water Resources and the Texas Water Commission to comply with the recommendations of the Governor's Select Committee on Water Quality Standards for the Colorado River.

S.C.R. 174, Commending the outstanding accomplishments and exemplary efforts of Pfizer, Incorporated.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 402

Senator Truan called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 402** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 402** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Truan, Chairman; Harris, Blake, Henderson, Whitmire.

SENATE BILL 1450 WITH HOUSE AMENDMENT

Senator Howard called **S.B. 1450** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment - Jackson

Amend **S.B. 1450** as follows:

1. In SECTION 1, strike Subdivision (3) of Article 6.02, as proposed to be amended, and substitute the following:

(3) Unless provided otherwise by a provision of the corporation's articles of incorporation that refers to this subsection, the remaining assets of the corporation shall be distributed only for tax exempt purposes to one or more organizations which are exempt under Section 501(c)(3), Internal Revenue Code of 1954 (26 U.S.C. Section 501(c)(3)) or its successor statute, or which are described in Section 170(c)(1) or (2), Internal Revenue Code of 1954 (26 U.S.C. Section 170(c)(1) or (2)), or its successor statute [~~Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, together with any income earned thereon shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation~~], pursuant to a plan of distribution adopted as provided in this Act. A district court of the county in which the corporation's principal office is located shall distribute to one or more organizations exempt under Section 501(c)(3) or described in Section 170(c)(1) or (2), or their successor statutes, the remaining assets of the corporation not distributed under the plan of distribution. Any distribution by the court shall be made in such manner as, in the judgment of the court, will best accomplish the general purposes for which the corporation was organized.

2. In SECTION 2, strike the language proposed to be added to Subdivision (3) of Section B and substitute the following:

Unless provided otherwise by a provision of the corporation's articles of incorporation that refers to this subsection, the remaining assets of the corporation shall be distributed only for tax exempt purposes to one or more organizations which are exempt under Section 501(c)(3), Internal Revenue Code of 1954 (26 U.S.C. Section 501 (c)(3)), or its successor statute, or which are described in Section 170(c)(1) or (2), Internal Revenue Code of 1954 (26 U.S.C. Section 170(c)(1) or (2)), or its successor statute. The distribution by the court shall be made in such manner as, in the judgment of the court, will best accomplish the general purposes for which the corporation was organized.

The amendment was read.

Senator Howard moved to concur in the House amendment.

The motion prevailed.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 807 ADOPTED

Senator Traeger called from the President's table the Conference Committee Report on **S.B. 807**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 24, 1985.)

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

SENATE BILL 1353 WITH HOUSE AMENDMENT

Senator Traeger called **S.B. 1353** from the President's table for consideration of the House amendment to the bill.

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

Committee Amendment - Haley

Amend **S.B. 1353**, page 1 line 11 by striking the words "an unposted" and substituting the word "a".

The amendment was read.

Senator Traeger moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1470 WITH HOUSE AMENDMENT

Senator Jones called **S.B. 1470** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment - S. Thompson

Amend **S.B. 1470**, page 1, by inserting a new Section 1 and 2 between lines 8 and 9 to read as follows:

SECTION 1. Section 51a(1), Texas Election Code (Article 5.19a, Vernon's Texas Election Code), is amended to read as follows:

(1) The registrar shall prepare for each election precinct of the county a certified list of registered voters who are registered as of the 30th day prior to the first election in each voting year. In preparing the list of registered voters for an election occurring during the period March 1 through August 15 of an even-numbered year, the registrar of voters may not include on the list of registered voters the name of any voter whose voter registration certificate was returned to the

registrar of voters after the mailout required by Subdivision 2(b), Section 46a, Texas Election Code, as amended (Article 5.14a, Vernon's Texas Election Code), unless such voter has filed the affidavit required by Subdivision 2(e), Section 46a, Texas Election Code, as amended (Article 5.14a, Vernon's Texas Election Code), more than 29 days before the date of such election. Each precinct list shall be arranged alphabetically by the names of the voters and showing each voter's name, residence address, sex, date of birth and registration number. The Secretary of State may prescribe the content and format of the precinct list. The registrar shall deliver on request to each board, executive committee, or other authority having the duty of furnishing supplies for any general, special, or primary election to be held within the county during the voting year for which the list is prepared, one set of such lists for all precincts in the county if the [~~any~~] election [~~which may be~~] held by such authority is countywide, and one set of such lists for all precincts wholly or partially within the boundaries of the particular political subdivision if the election [~~all elections which may be~~] held by such authority is [~~are~~] less than countywide. The registrar shall also furnish on request to each such authority an updated supplemental list of the voters in each precinct who will have been registered for 29 days on the day of the election and whose names do not appear on the original list. In [~~the event the prescribed combination form in accordance with Section 16 of this code has been furnished, before the first day of absentee voting in any subsequent election held by the authority during that voting year, the registrar shall furnish to the authority in either the prescribed combination form or simple list form, another copy of the original list and an updated supplemental list of the voters in each precinct who will have been registered for 29 days on the day of the election and whose names do not appear on the original list, except that in~~] the case of a runoff election the registrar may furnish a copy of the supplemental list prepared for the preceding election and a supplemental list of the voters who will have been registered for 29 days on the day of the runoff election and whose names do not appear on the original list or the supplemental list prepared for the preceding election instead of preparing a single updated supplemental list for that election. In every instance, instead of preparing a supplemental list or lists, the registrar may prepare a revised original list consolidating into it the names of the voters that would have been included on the supplemental list or lists. With each supplemental list or revised original list the registrar shall also furnish a list of persons whose registration information has been changed or corrected or whose registration has been cancelled or transferred to another precinct since preparation of the last set of lists. The authority shall furnish to the presiding judge in each precinct the original and supplemental lists of voters in his precinct at the time it furnishes other election supplies. Prior to the opening of the polls, the presiding judge shall strike from the registration list the names of persons whose registration has been cancelled or transferred to another precinct, and shall correct the list for persons whose registration information has been changed or corrected.

Before the first day of March in each even-numbered year and whenever appropriate thereafter, the registrar shall attach to each list herein required an alphabetical corresponding certified list of all the persons whose registration certificates were returned, pursuant to the provisions of Section 46a of this code[~~; and such list shall remain attached to the election precinct list for four months thereafter~~]. The precinct lists may be combined with the corresponding lists of returned registration certificates in accordance with the form and content prescribed by the Secretary of State.

SECTION 2. Subdivision 5, Section 48a, Texas Election Code (Article 5.16a, Vernon's Texas Election Code), is amended to read as follows:

Subdiv. 5. Correction of registration records. After receiving the lists of registered voters and the affidavits after an election, the [~~Within 10 days after the~~

~~election, the officer to whom the list of registered voters is returned shall notify the registrar of any additions which the election officers made to the list of registered voters and deliver to the registrar each affidavit of residence submitted at the election. Within the same period, the officer to whom the affidavit of erroneous election precinct is returned shall notify the registrar of the names and other information contained on the affidavits used in the election. The~~] registrar shall take the necessary steps to verify and correct the registration records, including deleting from the list of returned registration certificates the name of each voter who voted after submitting an affidavit of residence and delivering a corrected registration certificate to each voter. To ensure the accuracy of the registration certificates, the registrar may order a recall of the original registration certificates for correction where necessary. If the registrar finds that a person who voted is not registered, he shall report the matter to the prosecuting attorney.

SECTION 3. Section 113, Texas Election Code (Article 8.31, Vernon's Texas Election Code), is amended to read as follows:

113. RETURN OF ELECTION SUPPLIES, REGISTRATION LISTS, AND AFFIDAVITS. (a) The presiding judge shall deliver [~~the certified lists of qualified voters and~~] all stationery, rubber stamps, blank forms, and other election supplies not used, to the county clerk at the same time that he delivers the returns of the election, and not later than twenty-four hours after the closing of the polls.

(b) At the same time the election supplies are delivered under Subsection (a) of this section, the presiding judge shall deliver in an envelope to the voter registrar the lists of registered voters and the affidavits of residence, erroneous election precinct, and challenge of voters.

(c) The presiding judge [~~He~~] shall provide for the safe storage of the voting booths in some place and notify the county clerk.

The amendment was read.

Senator Jones moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1487 WITH HOUSE AMENDMENT

Senator Harris called **S.B. 1487** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment - Ceverha

Amend **S.B. 1487** SECTION 1, subsection (4), on page 3 by adding the following between the word "ordinance" on line 9 and the word "as" on line 10: "for such zoned territory".

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1238 ADOPTED

Senator Howard called from the President's table the Conference Committee Report on **S.B. 1238**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 24, 1985.)

On motion of Senator Howard, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Sharp and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 192.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 192 ADOPTED

Senator Sharp called from the President's table the Conference Committee Report on **S.B. 192.** (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Sharp, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Traeger and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 440.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 440 ADOPTED

Senator Traeger called from the President's table the Conference Committee Report on **S.B. 440.** (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Traeger, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 699 ADOPTED

Senator Lyon called from the President's table the Conference Committee Report on **S.B. 699.** (The Conference Committee Report having been filed with the Senate and read on Sunday, May 26, 1985.)

On motion of Senator Lyon, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Caperton and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 725.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 725 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on **S.B. 725** (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 713 ADOPTED

Senator Jones called from the President's table the Conference Committee Report on **S.B. 713.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 25, 1985.)

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

RECORD OF VOTES

Senators Barrientos, Sharp and Washington asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1435 ADOPTED

Senator Jones called from the President's table the Conference Committee Report on **S.B. 1435**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 26, 1985.)

On motion of Senator Jones, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 1246**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1246 ADOPTED

Senator Farabee called from the President's table the Conference Committee Report on **S.B. 1246**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Farabee, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1731 ON SECOND READING

On motion of Senator Caperton 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. 1731, Relating to the basis for suspending a handicapped student from participating in extracurricular activities.

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

HOUSE BILL 1731 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1731** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

COMMITTEE SUBSTITUTE HOUSE BILL 2027 ON SECOND READING

On motion of Senator Jones 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. 2027, Relating to the assignment of financial or purchasing responsibilities to certain county officers and employees.

The bill was read second time.

Senator Traeger offered the following amendment to the following bill:

Amend **C.S.H.B. 2027** by deleting the existing SECTION 1 and adding the following new SECTION 1 and SECTION 2 to the bill and renumbering subsequent sections accordingly:

"SECTION 1: Sections 1 and 2, Article 1645, Revised Statutes, are amended to read as follows:

"Sec. 1. (a) In any county having a population of 10,000 inhabitants or over according to the last preceding Federal Census, there shall be appointed every two years an auditor of accounts and finances, the title of said office to be County Auditor, who shall hold his office for two years. The appointment is made by the District Judge having jurisdiction in the county, by a majority vote of all the District Judges.

"(b) The County Auditor [~~and who~~] shall receive [~~as compensation for his services an annual salary~~] from the County General Fund an annual salary and such allowances as are [~~of not more than the amount allowed or paid the Assessor Collector of Taxes in his county, such salary of the County Auditor to be~~] fixed and determined by the District Judge or District Judges making such appointment and having jurisdiction in the county, a majority ruling. The [~~, said~~] annual salary shall [~~to~~] be paid monthly out of the General Fund of the county. The action of the District Judge or District Judges in determining and fixing the salary and allowances of the County Auditor shall be made by order and recorded in the minutes of the District Court of the county and the Clerk thereof shall certify the same for observances to the Commissioners Court which shall cause the same to be recorded in its minutes.

"(c) The annual salary may not exceed an amount that is 15 percent greater than the salary of the County Tax Assessor-Collector and may not exceed the salary, from all sources, of the highest paid elected officer of the county, excluding the judge of any statutory county court. An allowance may be paid only for an item for which the County Tax Assessor-Collector is paid an allowance and may not exceed the amount allowed the County Tax Assessor-Collector.

"(d) An annual salary or an allowance that exceeds the maximum amount permitted by Subsection (c) of this section may be paid with the approval of the Commissioners Court of the county.

"(e) Notwithstanding any other provision of this section, in no case may the salary of a County Auditor be set at an amount less than the salary of the County Auditor in the county on September 1, 1985.

"(f) Notwithstanding any other provision of this section, the County Auditor in any county having a population in excess of 2,250,000 according to the last preceeding Federal Census, shall receive as compensation for his services an annual salary from the County General Fund of not more than the amount allowed or paid the Assessor Collector of Taxes in his county, such salary of the County Auditor to be fixed and determined by the District Judge or District Judges making such appointment and having jurisdiction in the county, a majority ruling. The annual salary shall be paid monthly out of the General Fund of the county. The action of the District Judge or District Judges in determining and fixing the salary shall be made by order and recorded in the minutes of the District Court of the county and the Clerk thereof shall certify the same as for observance to the Commissioner Court which shall cause the same to be recorded in its minutes.

"Sec. 2. In addition to the procedure for the appointment of a County Auditor prescribed by Article 1646, a County Auditor may be appointed in a county in which the office is not required under Section 1 of this article if the District Judge or District Judges having jurisdiction in the county, by majority vote, determine that the county's financial circumstances warrant the appointment. The provisions of Section 1 of this article relating to salary, allowances, and term of office apply to

a County Auditor appointed under this section. A County Auditor appointed under this section shall qualify for office and perform the duties of a County Auditor as provided by law.

"SECTION 2. Article 1646, Revised Statutes, is amended to read as follows:

"Art. 1646. AUDITORS FOR OTHER COUNTIES. When the Commissioners' Court of a county not mentioned and enumerated in the preceding Article shall determine that an Auditor is a public necessity in the dispatch of the county business, and shall enter an order upon the minutes of said Court fully setting out the reason for and necessity of an Auditor, and shall cause such order to be certified to the District Judge or District Judges having jurisdiction in the county, said Judge or Judges shall, if said reason be considered good and sufficient, appoint a County Auditor as provided in the preceding Article, who shall qualify and perform all the duties required of County Auditors by the laws of this State. The provisions of Section 1, Article 1645, Revised Statutes, relating to salary, allowances, and term of office apply to a County Auditor appointed under this Article. [~~, and who shall receive as compensation for his services as County Auditor an annual salary of not more than the annual total compensation and/or salary allowed or paid the Assessor and Collector of Taxes in his county, and not less than the annual salary allowed such County Auditor under the General Law provided in Article 1645, Revised Civil Statutes, as said Article existed on January 1, 1940, such salary of the County Auditor to be determined and fixed by the District Judge or District Judges having jurisdiction in the county, a majority thereof ruling, said annual salary to be paid monthly out of the general fund of the county. The action of said District Judge or District Judges in determining and fixing the salary of the County Auditor shall be made by order and recorded in the minutes of the District Court of the county, and the Clerk thereof shall certify the same for observance to the Commissioners' Court which shall cause the same to be recorded in its minutes after the salary of the County Auditor has been fixed by the District Judge or District Judges, no change in such salary shall thereafter become effective until the beginning of the next ensuing fiscal year of the county, provided, however, any increase in the salary of any such County Auditor, over and above the annual salary allowed such County Auditor under the general law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed or permitted with the express consent and approval of the Commissioners' Court of the county whose County Auditor is affected or may be affected by the provisions of this Act, such consent and approval of such Commissioners' Court shall be made by order such Court and recorded in the minutes of the Commissioners' Court of such County.~~] Provided, said District Judge or District Judges shall have the power to discontinue the services of a County Auditor as provided for in this Article at any time after the expiration of one (1) year from the appointment, when it is clearly shown that such Auditor is not a public necessity, and his services are not commensurate with his salary."

The amendment was read and was adopted.

On motion of Senator Jones 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.

COMMITTEE SUBSTITUTE HOUSE BILL 2027 ON THIRD READING

Senator Jones 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. 2027** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, Mauzy, Montford, Parker, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire.

Nays: McFarland, Parmer, Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, Mauzy, Montford, Parker, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Nays: McFarland, Parmer.

COMMITTEE SUBSTITUTE HOUSE BILL 1658 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. 1658, Relating to the creation and reappointment of Supreme Judicial Districts and to court administration and management in certain courts, including compensation and transfer of cases; adopting the Court Administration Act; amending Chapter 275, Acts of the 64th Legislature, Regular Session, 1975, as amended (Article 4412b, Vernon's Texas Civil Statutes), and repealing certain laws.

The bill was read second time.

Senator Farabee offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 1658** on page 1, line 17 by inserting the following after "Districts":

", which shall be composed of one or more whole counties,"

The amendment was read.

On motion of Senator Farabee and by unanimous consent, the amendment was withdrawn.

Senator Mauzy offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.H.B. 1658** by adding new sections 7 through 16 and renumbering section 8 to become section 17 as follows:

SECTION 7. Article 198, Revised Statutes, is amended to read as follows:

Art. 198. SUPREME JUDICIAL DISTRICTS. This state shall be divided into seventeen [~~fourteen (14)~~] Supreme Judicial Districts, composed of the following named counties for the purpose of constituting and organizing a Court of Appeals in each of the several Supreme Judicial Districts, as follows, to wit:

First: Trinity, Walker, Grimes, Burleson, Washington, Waller, Harris, Chambers, Austin, Brazoria, Fort Bend, Galveston, Colorado and Brazos.

Second: Wichita, Clay, Montague, Wise, Tarrant, Cooke, Denton, Parker, Archer, Young, Jack and Hood.

Third: Milam, Lee, Bastrop, Caldwell, Hays, Travis, Williamson, Bell, Burnet, Blanco, Llano, San Saba, Lampasas, Mills, McCulloch, Runnels, Tom Green, Concho, Comal, Fayette, Coke, Sterling, Irion and Schleicher.

Fourth: Jim Wells, Val Verde, Guadalupe, Sutton, Edwards, Kinney, Maverick, Menard, Kimble, Kerr, Bandera, Uvalde, Zavala, Dimmit, Webb, LaSalle, Frio, Medina, Duval, McMullen Atascosa, Bexar, Kendall, Wilson, Zapata, Karnes, Starr, Jim Hogg, Real, Brooks, Gillespie and Mason.

Fifth: [~~Grayson, Collin, Dallas, Rockwall, Hunt, Kaufman and Van Zandt~~] That part of Dallas county included in census tracts 153.01, 153.02, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165.01, 165.02, 165.03, 165.05, 165.06, 165.07, 166.01, 166.02, 166.03, 166.04, 167.01, 167.02, 168, 169.01, 169.02, 169.03, 169.04, 170, 171, 172, 173, 174, 175, 176.01, 176.02, 177, 178.01, 178.04, 178.05, 179, 180, 4.01, 4.02, 4.03, 5, 6.01, 6.03, 6.04, 7.01, 7.02, 8, 9, 10, 12, 13.01, 13.02, 14, 15.01, 15.02, 16, 17.01, 17.02, 18, 19, 20, 21, 22.01, 22.02, 23, 24, 25, 26, 27.01, 27.02, 28, 29, 30, 31.01, 31.02, 32.01, 32.02, 33, 34, 35, 36, 37, 38, 39.01, 39.02, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59.01, 59.02, 60.01, 60.02, 61, 62, 63.01, 63.02, 64, 65, 67, 68, 69, 71.02, 72, 83, 84, 85, 86.01, 86.02, 87.01, 87.03, 87.04, 87.05, 88.01, 88.02, 89, 90.01, 90.02, 91.01, 91.02, 92.01, 92.02, 93.01, 93.03, 93.04, 98.02, 100, 101, 102, 103, 104, 105, 106, 107, 108.01, 108.02, 108.03, 109, 110.01, 110.02, 111.01, 111.02, 112, 113, 114.01, 114.02, 115, 116.01, 116.02, 117, 118, 119, 120, 121, 122.02, 122.03, 122.04, 122.05, 123, 125, 127, 148.01, 148.02; that part of census tract 1 included in block group 2 and 3, and block group 413; that part of census tract 122.03 included in blocks 205 and 206; that part of census tract 122.04 included in block groups 3 and 4; and that part of census tract 122.05 included in blocks 201 and 210.

Sixth: Fannin, Lamar, Red River, Bowie, Delta, Hopkins, Franklin, Titus, Morris, Cass, Marion, Harrison, Gregg, Camp, Hunt, Wood, Upshur, Rusk and Panola.

Seventh: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Foard, Hardeman, Wilbarger, Crosby, Lubbock, Hockley, Cochran, Yoakum, Terry, Lynn, Garza, Dickens, Kent and King.

Eighth: Crockett, Gaines, Andrews, Martin, Loving, Winkler, Midland, Glasscock, Reeves, Ward, Crane, Upton Reagan, Terrell, Pecos, Brewster, Presidio, Jeff Davis, El Paso, Ector, Culbertson and Hudspeth.

Ninth: San Jacinto, Montgomery, Liberty, Jefferson, Orange, Hardin, Newton, Jasper, Tyler, Polk and Angelina.

Tenth: McLennan, Coryell, Hamilton, Bosque, Johnson, Somervell, Falls, Limestone, Hill, Brazos, Madison, Robertson, Ellis, Leon, Freestone and Navarro.

Eleventh: Dawson, Howard, Mitchell, Scurry, Nolan, Fisher, Stonewall, Taylor, Jones, Haskell, Knox, Callahan, Shackelford, Thorckmorton, Baylor, Coleman, Brown, Comanche, Eastland, Stephens, Erath, Palo Pinto and Borden.

Twelfth: Kaufman, Van Zandt, Rains, Hopkins, Wood, Upshur, Smith, Henderson, Anderson, Houston, Cherokee, Rusk, Nacogdoches, San Augustine, Sabine, Shelby, Panola and Gregg.

Thirteenth: Lavaca, Wharton, Gonzales, DeWitt, Jackson, Matagorda, Victoria, Goliad, Calhoun, Bee, Refugio, Aransas, San Patricio, Nueces, Kleberg, Kenedy[~~, Willacy, Hidalgo, Cameron~~] and Live Oak.

Fourteenth: Trinity, Walker, Grimes, Burleson, Washington, Waller, Harris, Chambers, Austin, Brazoria, Fort Bend, Galveston, Colorado and Brazos.

Fifteenth: Collin, Grayson, Hunt, Kaufman, Rockwall and Van Zandt.

Sixteenth: Hidalgo, Willacy and Cameron.

Seventeenth: That part of Dallas County not included in the Fifth Supreme Judicial District.

SECTION 8. Subsection (a), Article 1812, Revised Statutes, is amended to read as follows:

(a) Each Court of Appeals shall consist of a Chief Justice and, in each respective district, the following number of Associate Justices:

(1)	First	8
(2)	Second	5
(3)	Third	2
(4)	Fourth	6
(5)	Fifth	8

[~~(i) The transition from a six judge court to a 13 judge court shall be as follows:~~

[~~(1) September 1, 1981. Six additional justices shall be added by appointment by the Governor with the advice and consent of the Senate making a total at that time of 12 justices. The justice elected to position in 1982 shall serve an initial term to end December 31, 1984, or when their successors have qualified.~~

[~~(2) January 1, 1983. One additional justice shall be added by appointment by the Governor with the advice and consent of the Senate making a total at that time of 13 justices. The justice elected to this position in 1984 shall serve an initial term to end December 31, 1984, or when his successor has qualified.~~

[~~(ii) In no event shall the total justices authorized by this Act exceed a total of 13 justices in this particular court.~~]

(6)	Sixth	2
(7)	Seventh	3
(8)	Eighth	3
(9)	Ninth	2
(10)	Tenth	2
(11)	Eleventh	2
(12)	Twelfth	2
(13)	Thirteenth	5
(14)	Fourteenth	8
(15)	Fifteenth	2
(16)	Sixteenth	2
(17)	Seventeenth	3

SECTION 9. Article 1817, Revised Statutes, is amended to read as follows:

Art. 1817. LOCATION OF COURTS. A Court of Appeals shall be held at the following places, respectively:

1. In the First Supreme Judicial District, in the city of Houston;
2. In the Second Supreme Judicial District, in the city of Fort Worth;
3. In the Third Supreme Judicial District, in the city of Austin;
4. In the Fourth Supreme Judicial District, in the city of San Antonio;
5. In the Fifth Supreme Judicial District, in the city of Dallas;
6. In the Sixth Supreme Judicial District, in the city of Texarkana;
7. In the Seventh Supreme Judicial District, in the city of Amarillo;
8. In the Eighth Supreme Judicial District, in the city of El Paso;
9. In the Ninth Supreme Judicial District, in the city of Beaumont;
10. In the Tenth Supreme Judicial District, in the city of Waco;
11. In the Eleventh Supreme Judicial District, in the city of Eastland;
12. In the Twelfth Supreme Judicial District, in the city of Tyler;
13. In the Thirteenth Supreme Judicial District, in the city of Corpus Christi; [~~and~~]
14. In the Fourteenth Supreme Judicial District, in the city of Houston;
15. In the Fifteenth Supreme Judicial District, in the city of Sherman;

(16. In the Sixteenth Supreme Judicial District, in the city of Edenburg; and
17. In the Seventeenth Supreme Judicial District, in the city of Dallas.

The cities of Beaumont and Waco, and Eastland County, respectively, shall furnish and equip suitable rooms for the respective Courts of Appeals therein, and the justices thereof, and the County of Harris shall furnish and equip suitable rooms in Houston for the Courts of Appeals for the First and Fourteenth Supreme Judicial Districts, and for the justices thereof, all without cost or expense to the state. The city of Tyler and Smith County and the city of Corpus Christi and Nueces County, respectively, shall furnish and equip rooms and a library for the respective Courts of Appeals located therein, and for the justices thereof, all without cost or expense to the state. The city of Sherman and Grayson County shall furnish and equip suitable rooms and library in Sherman for the Court of Appeals for the Fifteenth Supreme Judicial District, without cost or expense to the state. The city of Edinburg and Hidalgo County shall furnish and equip suitable rooms in Edinburg for the Court of Appeals for the Sixteenth Supreme Judicial District and the justices of the court, without cost or expense to the state.

SECTION 10. Section 1, Chapter 297, Acts of the 62nd Legislature, Regular Session, 1971 (Article 6819a-18a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. In addition to the compensation provided by law and paid by the State of Texas, the Commissioners Courts in the counties of each of the seventeen [~~fourteen~~] Supreme Judicial Districts of Texas are hereby each authorized to pay to each of the Justices of the Courts of Appeals residing within said Supreme Judicial Districts for all judicial and administrative services performed by them a sum not to exceed Fifteen Thousand Dollars ($15,000) per annum, to be paid in twelve equal monthly installments; provided, however, that the total of all sums so authorized to be paid to the individual Justices of the Courts of Appeals shall not exceed the total additional compensation authorized to be paid to any District Judge residing within such affected Supreme Judicial District.

SECTION 11. The governor shall appoint, with the advice and consent of the senate, one chief and two associate justices for each of the Fifteenth and Sixteenth Supreme Judicial Districts. Each appointee must meet the qualifications prescribed by law for justices of the courts of appeals. An appointee serves until the next general election for state and county officers.

SECTION 12. This Act does not affect the jurisdiction on appeal of any case from a county that is transferred by this Act to a different supreme judicial district if the transcripts for the case were filed before the effective date of this Act in the appropriate supreme judicial district.

SECTION 13. (a) The terms of office of the 12 associate justices serving on the Fifth Court of Appeals on the effective date of section 7 through section 14 of this Act expire January 1, 1986.

(b) The governor shall appoint, with the advice and consent of the senate, eight associate justices for the Fifth Supreme Judicial District to serve terms beginning January 1, 1986. Each appointee must meet the qualifications prescribed by law for justices of the courts of appeals. An appointee serves until the next general election for state and county officers.

(c) This Act does not affect the term of office of the chief justice of the Fifth Supreme Judicial District.

SECTION 14. The governor shall appoint, with the advice and consent of the senate, one chief and three associate justices for the Seventeenth Supreme Judicial District. Each appointee must meet the qualifications prescribed by law for justices of the courts of appeals. An appointee serves until the next general election for state and county officers.

SECTION 15. Section 1 through section 6 of this Act take effect January 1, 1986.

SECTION 16. Section 7 through section 14 of this Act take effect September 1, 1985.

SECTION 17. 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.

On motion of Senator Farabee, the amendment was tabled by the following vote: Yeas 19, Nays 11, Present-not voting 1.

Yeas: Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Krier, Leedom, McFarland, Montford, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan.

Nays: Barrientos, Brooks, Green, Kothmann, Lyon, Mauzy, Parker, Parmer, Uribe, Washington, Whitmire.

Present-not voting: Blake.

Senator Farabee offered the following amendment to the bill:

Floor Amendment No. 3

Amend **C.S.H.B. 1658** on page 1, line 17 by inserting the following after "Districts":

", which shall be composed of one or more whole counties,"

The 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.

The bill as amended was passed to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1658 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. 1658** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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:

The House has adopted the Conference Committee Report on **S.B. 540** by a record vote 137 ayes, 8 noes, and 1 present not voting.

The House refused to concur in Senate amendments to **H.B. 2091** and has requested the appointment of a Conference Committee to consider the differences

between the two Houses. House Conferees: C. Evans, Chairman; Wright, Messer, T. Smith, Gibson.

New House Conferees on **H.B. 402**: Criss, Chairman; R. Lewis, S. Johnson, Pennington, Agnich.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE HOUSE BILL 2484 ON SECOND READING

On motion of Senator Caperton 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. 2484, Relating to certain reinvestment zones which have been created or attempted to be created pursuant to Article 1066e, Vernon's Texas Civil Statutes, as amended; validating all acts and proceedings relating to the creation, designation, organization and operation of such zones; validating tax increment bonds payable as to principal and interest out of the tax increment fund established for such reinvestment zone; setting forth procedures for the approval and registration of such bonds and for the testing of the validity of such bonds; containing other provisions pertaining to the subject; and declaring an emergency.

The bill was read second time.

Senator Farabee offered the following amendment to the bill:

Amend **C.S.H.B. 2484** by substituting the following for SECTION 6:

SECTION 6. This Act does not apply to any city, town, or reinvestment zone that on the effective date of this Act is involved in litigation questioning the legality of the creation or designation of any reinvestment zone or of any acts, ordinances, or proceedings validated by this Act, regardless of the outcome of the litigation.

The amendment was read and was adopted.

On motion of Senator Caperton 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.

COMMITTEE SUBSTITUTE HOUSE BILL 2484 ON THIRD READING

Senator Caperton 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. 2484** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2161 ON THIRD READING

Senator Henderson moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

H.B. 2161, Relating to the purchase and sale of securities in the control of a financial institution as a trustee or as a custodian of an individual retirement account.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Green, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, McFarland, Montford, Parker, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire.

Nays: Barrientos, Glasgow, Lyon, Mauzy, Parmer, Washington.

The bill was read third time and was finally passed.

RECORD OF VOTES

Senators Glasgow, Lyon, Mauzy, Montford, Parmer asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 579 ON SECOND READING

On motion of Senator Krier 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. 579, Relating to admitting hearsay statements of certain children into evidence in certain criminal court proceedings and certain juvenile court hearings.

The bill was read second time.

Senator Krier offered the following amendment to the bill:

Amend **H.B. 579**:

(1) on page 1, line 29, by inserting after "person" and before "to" the following: ", 18 years of age or older other than the defendant,"

(2) on page 2, line 5, by inserting after "person" and before "to" the following: " 18 years of age or older,"

The amendment was read and was adopted.

On motion of Senator Krier 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 Caperton and Washington asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 579 ON THIRD READING

Senator Krier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 579** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Barrientos, Blake, Brooks, Brown, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire.

Nays: Caperton, Washington.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Caperton and Washington asked to be recorded as voting "Nay" on the final passage of the bill.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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:

The House refused to concur in Senate amendments to **H.B. 1592** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Hightower, Chairman; Keller, Perry, Eckels, Armbrister.

The House has concurred in Senate amendments to the following House Bills by a non-record vote:

H.B. 2423
H.B. 2068
H.B. 2302
H.B. 2371
H.B. 2438
H.B. 2488
H.B. 2034
H.B. 2290
H.B. 13
H.B. 157

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 784 WITH HOUSE AMENDMENTS

Senator Brooks called **S.B. 784** 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 - Schlueter

Substitute the following for **S.B. 784**:

A BILL TO BE ENTITLED
AN ACT

relating to the imposition and rate of local sales and use taxes by certain cities for reduction of property taxes; providing penalties.

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

SECTION 1. The Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes) is amended by adding Section 2A to read as follows:

Sec. 2A. A. Any city that is not located in a rapid transit authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or a regional transportation authority created

under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), or that does not impose the tax authorized by Section 8, Article 1118z, Revised Statutes, by a majority vote of the qualified voters of said city voting at an election held for that purpose, may adopt an additional local sales and use tax for the benefit of such city in accordance with the provisions of this Act. An authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is prohibited from imposing the tax provided for in those Acts, if, within the boundaries of the authority there is a city that has adopted the additional sales and use tax provided for in this Section.

B. The sales tax portion of any additional local sales and use tax adopted under this Section is hereby imposed at the rate of one percent (1%) on the receipts from the sale at retail of all taxable items within any city adopting such tax which items are subject to taxation by the State of Texas under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted, and as heretofore or hereafter amended, and at the rate of one percent (1%) on the receipts from the sale at retail within the city of gas and electricity for residential use as defined by the State Limited Sales, Excise and Use Tax Act, unless the residential use of gas and electricity is exempted from the tax imposed under Section 2 of this Act, in which case the residential use of gas and electricity is exempted under this Section also.

C. The governing body of any city, by a majority vote of its members qualified and serving, may provide by ordinance for the calling and holding of an election on such question.

D. The ordinance calling such election shall provide for the submission of such question at an election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. If the next regular city election is to be held during such period, the submission of such question shall be at such election; otherwise, a special election shall be called for the purpose.

E. Notice of said election shall be given by causing a substantial copy of the ordinance calling the election to be published on the same day of two successive weeks in a newspaper of general circulation published within said city, the date of the first publication to be at least twenty-one (21) days prior to the date set for such election. If there be no newspaper published within the city, such ordinance may be published in some newspaper having general circulation within the city. The provisions of this Section shall prevail over any city charter provision to the contrary.

F. The ballot at such election shall be printed to provide for voting for or against the following proposition:

"The adoption of an additional one percent (1%) local sales and use tax within the city to be used to reduce the property tax rate."

The election shall be conducted in the manner provided by law for other municipal elections unless otherwise specified herein. If a majority of the votes cast at such an election be in favor of the adoption of the additional local sales and use tax, the same shall be effective as provided by Subsection K of this Section.

G. In any city in which an additional local sales and use tax has been imposed in the manner provided for herein, in the same manner and by the same procedure such city by majority vote of the qualified voters of said city voting at an election held for that purpose may abolish such tax. The governing body of a city that has adopted the additional tax authorized by this Section shall call an election on the question of the abolition of the additional tax no later than ten (10) years from the date of the last preceding election on the adoption or abolition of the additional tax. The ballot for any such election shall be printed to provide for voting for or against the following proposition:

"The abolition of the additional local sales and use tax within the city."

If a majority of the votes cast at any such election be in favor of the abolition of such tax, such additional local sales and use tax shall be thereby abolished in the city as follows: There shall elapse one whole calendar quarter after the Comptroller receives the notice of abolition of the tax, after which the additional local sales and use tax shall be abolished in the city beginning on the first day of the first calendar year next succeeding the elapsed quarter.

H. Within ten (10) days after any election held under the provisions of this Section at which a majority of the qualified voters voting at such election in any city shall vote in favor of the adoption or the abolition of an additional local sales and use tax within such city, the governing body of such city shall canvass the returns of such election and by ordinance or resolution entered in the minutes declare the results of such election. Thereafter, the City Secretary shall forward to the Comptroller by United States Registered Mail or Certified Mail a certified copy of the ordinance or resolution of the governing body canvassing the returns and declaring the result of such election. Such ordinance or resolution shall reflect the date of the election in such city, the proposition voted on, the total number of votes cast for and against the proposition, and the number of votes by which the proposition was approved. If a majority of votes be found to be against any proposition, so that the tax status of such city under this Act is not changed, no notice of the results of the election shall be filed with the Comptroller. Not later than the 30th day after the date on which the Comptroller receives a certified copy of the ordinance or resolution showing the adoption of the additional tax under this subsection, he shall notify the City Secretary that he is prepared for the administration of the tax.

I. (1) In each city in which an additional local sales and use tax has been imposed in the manner provided by this Act, every retailer shall add the tax imposed by the Limited Sales, Excise and Use Tax Act of the State of Texas and the tax imposed by this Act to his sale price, and when added, the combined tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price in such city shall involve a fraction of a dollar, the two combined taxes shall be added to the sale price upon the schedule and bracket system formula set forth in Paragraphs (2) and (3) of this subsection.

(2) When such Limited Sales, Excise and Use Tax imposed by the State of Texas shall be at the rate of 4.125 percent on the receipts from the sale at retail of all taxable items within this State which are subject to such tax, and the Local Sales and Use Tax imposed in any city under authority of this Act shall be at the rate of two percent on the receipts from the sale of all taxable items within such city which is subject to such tax, the total gross rate of such combined taxes in such city shall be at the rate of 6.125 percent on combined taxes in such city on the receipts from the sale of all tangible personal property within such city which is subject to such taxes. When the sale price shall involve a fraction of a dollar, the taxes shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
$.01 to $ .08	No Tax
.09 to .24	$.01
.25 to .40	.02
.41 to .57	.03
.58 to .73	.04
.74 to .89	.05
.90 to 1.06	.06

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying 6.125 percent by the amount of the sale. Any

fraction of one cent ($.01) which is less than one-half of one cent ($.005) of tax shall not be collected. Any fraction of one cent ($.01) of tax equal to one-half of one cent ($.005) or more shall be collected as a whole cent ($.01) of tax.

Provided, however, that any retailer who can establish to the satisfaction of the Comptroller that fifty percent (50%) or more of his receipts from the sale of tangible personal property and taxable services arise from individual transactions where the total sales price is eight cents ($.08) or less may exclude the receipts from such sales when reporting and paying the tax imposed under this Act and the Limited Sales, Excise and Use Tax imposed by the State of Texas. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller shall be deemed to be a failure and refusal to pay the taxes imposed by this Act and the Limited Sales, Excise and Use Tax Act and the retailer shall be subject to assessment for both taxes, penalties and interest as provided for in this Act and the Limited Sales, Excise and Use Tax Act.

(3) In the event the Legislature shall either increase or decrease the rate of such State Limited Sales, Excise and Use Tax, the combined rate of the State Limited Sales, Excise and Use Tax and the Local Sales and Use Tax shall be the sum of the two rates, in which event the schedule for collection of such combined taxes shall be calculated by multiplying the combined tax rate times the amount of the sale. Any fraction of one cent ($.01) which is less than one-half of one cent ($.005) of tax shall not be collected. Any fraction of one cent ($.01) of tax equal to one-half of one cent ($.005) or more shall be collected by the retailer as a whole cent ($.01) of tax. The Comptroller may publish a schedule based on the above formula for use in those cities which have imposed a Local Sales and Use Tax under the authority of this Act, and which cities have a need for such schedule under the provisions of this paragraph.

J. Except as provided by Subsection B of this Section and Section 4A of this Act, in each city in which an additional local sales and use tax has been imposed in the manner provided by this Act, every retailer selling gas or electricity for residential use shall add the tax imposed by this Act to his sales price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The amount of the tax on the sale at retail of gas and electricity for residential use shall be calculated by multiplying the amount of the tax by the sales price. Any fraction of one cent ($.01) which is less than one-half of one cent ($.005) shall not be collected. Any fraction of one cent ($.01) of tax equal to one-half of one cent ($.005) or more shall be collected by the retailer as a whole cent ($.01) of tax. The Comptroller may publish a schedule based on the above formula for cities imposing an additional tax under this Section on the sale at retail of gas and electricity for residential use.

K. An additional Sales and Use Tax adopted under this Section shall be effective in the adopting city as follows: In order to allow time for the Comptroller's administrative duties under this Act, there shall elapse one whole calendar quarter after the Comptroller receives notice of adoption of the tax provided for in this Section, after which the additional Local Sales and Use Tax shall be effective in the adopting city beginning on the first day of the first calendar year next succeeding the elapsed quarter.

SECTION 2. Subsections A, B, and D, Section 4, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), are amended to read as follows:

A. Except as provided in Subsection D of this Section, in every city where the local sales and use tax has been adopted pursuant to the provisions of this Act, there is hereby imposed an excise tax on the storage, use, or other consumption within such city of tangible personal property purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the local sales and use tax for storage, use or other consumption in such city at the rate of one percent (1%), or two percent (2%) if the tax under Section 2A of this Act has been adopted, of the sales price of the property or, in the case of leases or rentals, of said lease or rental price. Except as provided in Subsection E of this Section, the local use tax is not owed to and may not be collected by, for, or in behalf of a city if no excise tax on the storage, use, or other consumption of an item of tangible personal property is owed to or collected by the State under the Limited Sales, Excise and Use Tax Act or if the tangible personal property is first stored, used, or consumed within a city or area that has not adopted the local sales or use tax.

B. Except as provided in Subsection D of this Section, in each city where the local sales and use tax has been imposed as provided in Section 2 or 2A of this Act, the excise tax imposed under the State Limited Sales, Excise and Use Tax Act on the storage, use, or other consumption of tangible personal property and the excise tax imposed by this Section of this Act shall be added together to form a combined rate of excise tax which is equal to the sum of the two taxes. The tax imposed by this Section of this Act shall be collected by the Comptroller on behalf of and for the benefit of such city. The bracket system formula prescribed in Subsection K of Section 2 or Subsection I of Section 2A of this Act shall be applicable to the collection of the excise tax imposed under this Section.

D. In every city where the local sales and use tax has been adopted under this Act, there is imposed an excise tax on the storage, use or other consumption within the city of gas and electricity for residential use purchased, leased or rented from any retailer on or after the effective date for collection of the sales tax portion of the local sales and use tax for storage, use or other consumption within the city at the rate of one percent (1%), or two percent (2%) if the tax under Section 2A of this Act has been imposed, of the sales price of the gas and electricity for residential use, or in the case of leases or rentals, of the lease or rental price. In every city where the local sales and use tax has been adopted under this Act, the excise tax imposed by this Section shall be calculated as provided in Subsection L, Section 2, or Subsection J, Section 2A of this Act and shall be collected by the Comptroller on behalf of and for the benefit of the city in the same manner as if the use, storage or other consumption of gas and electricity for residential use were not exempt under the Limited Sales, Excise and Use Tax Act.

SECTION 3. Subsection (a), Section 5, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) On and after the effective date of any tax imposed under the provisions of this Act, the Comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the Comptroller shall collect, in addition to the Limited Sales, Excise and Use Tax for the State of Texas, an additional tax under the authority of this Act of one percent (1%), or at the rate of two percent (2%) if the tax under Section 2A of this Act has been adopted, on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within such city which property is subject to the State Limited Sales, Excise and Use Tax Act, and an additional tax of one percent (1%), or at the rate of two percent (2%) if the tax under Section 2A of this Act has been adopted, on the receipts on the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of gas and electricity for residential use within the city as provided in this Act unless exempted as provided in Section 4A of this Act. The tax imposed

hereunder and the tax imposed under the Limited Sales, Excise and Use Tax Act shall be collected together, if both are imposed, and reported upon such forms and under such administrative rules and regulations as may be prescribed by the Comptroller not inconsistent with the provisions of this Act. On and after the effective date of any proposition to abolish such local sales and use tax, or the additional tax under Section 2A of this Act, in any city, the Comptroller shall comply therewith as provided in this Act.

SECTION 4. Paragraph (2), Subsection C, Section 6, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

(2) The receipts from the sale, use or rental of and the storage, use or consumption in this State, of taxable items are exempt from the tax imposed under Section 2 of [by] this Act, if:

(a) the items are used for the performance of a written contract entered into prior to the date the tax imposed under Section 2 of this Act takes effect in any city which may affect the contract, if the contract is not subject to change or modification by reason of the tax; or

(b) the items are used pursuant to an obligation of a bid or bids submitted prior to the date the tax imposed under Section 2 of this Act takes effect in any city which may affect the contract, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this Act; and

(c) if notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the Comptroller within sixty (60) days from the date the tax imposed under Section 2 of this Act takes effect in any city which may affect the bid or contract.

The exemption provided by this Subsection shall have no effect after three (3) years from the date the tax imposed under Section 2 of this Act takes effect in any city.

The receipts from the sale, use or rental of and the storage, use or consumption in this State, of taxable items are exempt from the additional tax imposed under this Act, if:

(a) the items are used for the performance of a written contract entered into prior to the date the additional tax takes effect in any city which may affect the contract, if the contract is not subject to change or modification by reason of the tax; or

(b) the items are used pursuant to an obligation of a bid or bids submitted prior to the date the additional tax takes effect in any city which may affect the contract, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this Act; and

(c) if notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the Comptroller within sixty (60) days from the date the additional tax takes effect in any city which may affect the bid or contract.

The exemption provided by this Subsection shall have no effect after three (3) years from the date the additional tax takes effect in any city.

SECTION 5. Section 9, Chapter 36, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. (a) Money collected under this Act is for the use and benefit of the cities of the state; but no city may pledge anticipated revenue from this source to secure the payment of bonds or other indebtedness.

(b) Beginning in the first full year occurring after the effective date of an additional city sales and use tax under this Act, the amount by which the revenue from the collection of the additional tax exceeds the city's effective maintenance and operating tax revenue from property taxes as defined in Section 26.04, Tax Code, shall be deposited in an account to be called the sales tax debt service fund and may be spent only for the reduction of lawful debts of the city. Any amount of additional

revenue that exceeds the city's effective maintenance and operating tax plus the current debt service requirements for the city may be used for any city purpose consistent with its annual budget.

SECTION 6. Chapter 26, Tax Code, is amended by adding Section 26.051 to read as follows:

Sec. 26.051. TAX RATES OF CERTAIN CITIES. (a) In each tax year occurring after the effective date of a city sales and use tax under Section 2A of the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), the governing body of the city shall set its property tax rate under this section. If the city's tax rate is set under this section, Sections 26.04(c), (d), and (e), Section 26.05(c), Section 26.06, and Section 26.07 of this code do not apply in that tax year.

(b) In a tax year in which this section applies, an officer or employee designated by the governing body shall add the total amount of property taxes imposed by the unit in the preceding year and the amount deducted under Subdivision (6) of this subsection in the preceding year, if any. From that amount he shall subtract:

(1) the amount of taxes imposed in the preceding year to pay the principal of and interest on debt of the unit and to pay lawfully incurred contractual obligations providing security for the payment of the principal of and interest on bonds or other evidences of indebtedness issued on behalf of the unit by another political subdivision;

(2) the amount of taxes imposed in the preceding year on property in territory that has ceased to be a part of the unit;

(3) the amount of taxes imposed in the preceding year on taxable value that is exempt in the current year;

(4) the amount of taxes imposed in the preceding year on taxable value that is not taxable in the current year because property appraised at market value in the preceding year is required by law to be appraised at less than market value in the current year;

(5) the amount of taxes imposed in the preceding year pursuant to Section 26.04(d) of this code, to recoup taxes lost in the year before as a result of an error or errors; and

(6) the amount of additional sales and use tax revenue determined as provided in Subsection (f) of this section, not to exceed the amount of taxes determined as provided by Subsections (b)(1) through (b)(5) of this section.

(c) The designated officer or employee shall calculate the tax rate that if applied to the total taxable value submitted to the governing body less the taxable value of new property would impose the amount of property taxes determined as provided by Subsection (b) of this section. He shall add to that rate the amount that, if applied to the total taxable value submitted to the governing body, will impose the amount of taxes needed to pay the principal of and interest on debt of the unit and to pay lawfully incurred contractual obligations providing security for the payment of the principal of and interest on bonds or other evidences of indebtedness issued on behalf of the unit by another political subdivision. If one or more errors on the appraisal roll for the previous year were discovered after adoption of the unit's tax rate and if those errors resulted in the loss of more than one percent of the total appraised value for the unit in that year, he may also add to that rate the amount that, if applied to the total taxable value, will raise the rate calculated under this section to what it would have been if the errors had not occurred plus the amount that will recoup the amount of taxes lost in the preceding year as a result of the errors. He shall subtract from that rate the amount that, if applied to the total taxable value submitted to the governing body, would equal the balance showing in the city's sales tax debt service fund.

(d) By August 7 or as soon thereafter as practicable, the designated officer or employee shall publicize:

(1) the tax rate calculated as provided by this section and the calculations used to determine it in a manner designed to come to the attention of all owners of property in the unit and shall submit the rate to the governing body of the unit;

(2) the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding existing debt obligation; and

(3) a schedule of the city's debt obligations showing the amount of principal and interest that will be paid in the next year from property tax revenues, including payments of lawfully incurred contractual obligations providing security for the payment of the principal and interest on bonds and other evidences of indebtedness issued on behalf of the unit by another political subdivision.

(e) The governing body may not adopt a tax rate that exceeds the tax rate calculated as provided by this section by more than three percent. The governing body shall reduce a tax rate set by law or by vote of the electorate to the rate permissible under this subsection.

(f) In order to compute the amount of additional city sales and use tax revenue required in the formula in Subsection (b)(6) of this section, the designated officer or employee shall use the city sales and use tax revenue for the last preceding quarter for which the information is available as the basis for projecting sales and use tax revenue for the current tax year that is derived from the tax rate increase that resulted in the application of this section. If the city did not impose a sales and use tax under the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes) for the last preceding quarter, the designated officer or employee shall request that the comptroller of public accounts make an estimate of the tax revenue of the city required for the purposes of this section and shall use the amounts contained in that estimate. On receipt of a request under this section, the comptroller shall estimate the revenue of the city from the additional sales and use tax for the current tax year and necessary for the computations required by this section.

(g) In order to determine the amount of city sales and use tax revenue for the formula in Subsection (c) of this section in the first year following the adoption of a city sales and use tax, the designated officer or employee shall multiply the city sales and use tax revenue estimated as provided in Subsection (f) of this section by .95, and subtract from that product the amount deducted in Subsection (b)(6) of this section. Any amount remaining, not to exceed the current year's debt service described in Subsection (d)(3) of this section, shall be deposited in a fund to be known as the sales tax debt service fund. In all years following the first year of a city sales and use tax, the designated officer or employee shall further reduce the amount calculated pursuant to this subsection by the amount of the city's cumulative sales tax debt service fund.

(h) In this section, "debt" has the meaning assigned that term in Section 26.04 of this code.

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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment - Schlueter

Amend **S.B. 784** bv striking all below the enacting clause and substituting the following:

Article 1

SECTION 1. The Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes) is amended by adding Section 2A to read as follows:

Sec. 2A. A. Any city that is not located in a rapid transit authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), or that does not impose the tax authorized by Section 8, Article 1118z, Revised Statutes, by a majority vote of the qualified voters of said city voting at an election held for that purpose, may adopt an additional local sales and use tax for the benefit of such city in accordance with the provisions of this Act. An authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is prohibited from imposing the tax provided for in those Acts, if, within the boundaries of the authority there is a city that has adopted the additional sales and use tax provided for in this Section.

B. The sales tax portion of any additional local sales and use tax adopted under this Section is hereby imposed at the rate of one-half of one percent (1/2%) on the receipts from the sale at retail of all taxable items within any city adopting such tax which items are subject to taxation by the State of Texas under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted, and as heretofore or hereafter amended, and at the rate of one-half of one percent (1/2%) on the receipts from the sale at retail within the city of gas and electricity for residential use as defined by the State Limited Sales, Excise and Use Tax Act, unless the residential use of gas and electricity is exempted from the tax imposed under Section 2 of this Act, in which case the residential use of gas and electricity is exempted under this Section also.

C. The governing body of any city, by a majority vote of its members qualified and serving, may provide by ordinance for the calling and holding of an election on such question.

D. The ordinance calling such election shall provide for the submission of such question at an election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. If the next regular city election is to be held during such period, the submission of such question shall be at such election; otherwise, a special election shall be called for the purpose.

E. Notice of said election shall be given by causing a substantial copy of the ordinance calling the election to be published on the same day of two successive weeks in a newspaper of general circulation published within said city, the date of the first publication to be at least twenty-one (21) days prior to the date set for such election. If there be no newspaper published within the city, such ordinance may be published in some newspaper having general circulation within the city. The provisions of this Section shall prevail over any city charter provision to the contrary.

F. The ballot at such election shall be printed to provide for voting for or against the following proposition:

"The adoption of an additional one-half of one percent (1/2%) local sales and use tax within the city to be used to reduce the property tax rate."

The election shall be conducted in the manner provided by law for other municipal elections unless otherwise specified herein. If a majority of the votes cast at such an election be in favor of the adoption of the additional local sales and use tax, the same shall be effective as provided by Subsection K of this Section.

G. In any city in which an additional local sales and use tax has been imposed in the manner provided for herein, in the same manner and by the same procedure

such city by majority vote of the qualified voters of said city voting at an election held for that purpose may abolish such tax. The governing body of a city that has adopted the additional tax authorized by this Section shall call an election on the question of the abolition of the additional tax no later than ten (10) years from the date of the last preceding election on the adoption or abolition of the additional tax. The ballot for any such election shall be printed to provide for voting for or against the following proposition:

"The abolition of the additional local sales and use tax within the city."

If a majority of the votes cast at any such election be in favor of the abolition of such tax, such additional local sales and use tax shall be thereby abolished in the city as follows: There shall elapse one whole calendar quarter after the Comptroller receives the notice of abolition of the tax, after which the additional local sales and use tax shall be abolished in the city beginning on the first day of the first calendar year next succeeding the elapsed quarter.

H. Within ten (10) days after any election held under the provisions of this Section at which a majority of the qualified voters voting at such election in any city shall vote in favor of the adoption or the abolition of an additional local sales and use tax within such city, the governing body of such city shall canvass the returns of such election and by ordinance or resolution entered in the minutes declare the results of such election. Thereafter, the City Secretary shall forward to the Comptroller by United States Registered Mail or Certified Mail a certified copy of the ordinance or resolution of the governing body canvassing the returns and declaring the result of such election. Such ordinance or resolution shall reflect the date of the election in such city, the proposition voted on, the total number of votes cast for and against the proposition, and the number of votes by which the proposition was approved. If a majority of votes be found to be against any proposition, so that the tax status of such city under this Act is not changed, no notice of the results of the election shall be filed with the Comptroller. Not later than the 30th day after the date on which the Comptroller receives a certified copy of the ordinance or resolution showing the adoption of the additional tax under this subsection, he shall notify the City Secretary that he is prepared for the administration of the tax.

I. (1) In each city in which an additional local sales and use tax has been imposed in the manner provided by this Act, every retailer shall add the tax imposed by the Limited Sales, Excise and Use Tax Act of the State of Texas and the tax imposed by this Act to his sale price, and when added, the combined tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price in such city shall involve a fraction of a dollar, the two combined taxes shall be added to the sale price upon the schedule and bracket system formula set forth in Paragraphs (2) and (3) of this subsection.

(2) When such Limited Sales, Excise and Use Tax imposed by the State of Texas shall be at the rate of 4.125 percent on the receipts from the sale at retail of all taxable items within this State which are subject to such tax, and the Local Sales and Use Tax imposed in any city under authority of this Act shall be at the rate of one and one-half percent (1-1/2%) on the receipts from the sale of all taxable items within such city which is subject to such tax, the total gross rate of such combined taxes in such city shall be at the rate of 5.625 percent on combined taxes in such city on the receipts from the sale of all tangible personal property within such city which is subject to such taxes. When the sale price shall involve a fraction of a dollar, the taxes shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
$.01 to $ .08	No Tax
.09 to .26	$.01
.27 to .44	.02
.45 to .62	.03
.63 to .79	.04
.80 to .97	.05
.98 to 1.15	.06

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying 5.625 percent by the amount of the sale. Any fraction of one cent ($.01) which is less than one-half of one cent ($.005) of tax shall not be collected. Any fraction of one cent ($.01) of tax equal to one-half of one cent ($.005) or more shall be collected as a whole cent ($.01) of tax.

Provided, however, that any retailer who can establish to the satisfaction of the Comptroller that fifty percent (50%) or more of his receipts from the sale of tangible personal property and taxable services arise from individual transactions where the total sales price is eight cents ($.08) or less may exclude the receipts from such sales when reporting and paying the tax imposed under this Act and the Limited Sales, Excise and Use Tax imposed by the State of Texas. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller shall be deemed to be a failure and refusal to pay the taxes imposed by this Act and the Limited Sales, Excise and Use Tax Act and the retailer shall be subject to assessment for both taxes, penalties and interest as provided for in this Act and the Limited Sales, Excise and Use Tax Act.

(3) In the event the Legislature shall either increase or decrease the rate of such State Limited Sales, Excise and Use Tax, the combined rate of the State Limited Sales, Excise and Use Tax and the Local Sales and Use Tax shall be the sum of the two rates, in which event the schedule for collection of such combined taxes shall be calculated by multiplying the combined tax rate times the amount of the sale. Any fraction of one cent ($.01) which is less than one-half of one cent ($.005) of tax shall not be collected. Any fraction of one cent ($.01) of tax equal to one-half of one cent ($.005) or more shall be collected by the retailer as a whole cent ($.01) of tax. The Comptroller may publish a schedule based on the above formula for use in those cities which have imposed a Local Sales and Use Tax under the authority of this Act, and which cities have a need for such schedule under the provisions of this paragraph.

J. Except as provided by Subsection B of this Section and Section 4A of this Act, in each city in which an additional local sales and use tax has been imposed in the manner provided by this Act, every retailer selling gas or electricity for residential use shall add the tax imposed by this Act to his sales price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The amount of the tax on the sale at retail of gas and electricity for residential use shall be calculated by multiplying the amount of the tax by the sales price. Any fraction of one cent ($.01) which is less than one-half of one cent ($.005) shall not be collected. Any fraction of one cent ($.01) of tax equal to one-half of one cent ($.005) or more shall be collected by the retailer as a whole cent ($.01) of tax. The Comptroller may publish a schedule based on the above formula for cities imposing an additional tax under this Section on the sale at retail of gas and electricity for residential use.

K. An additional Sales and Use Tax adopted under this Section shall be effective in the adopting city as follows: In order to allow time for the Comptroller's administrative duties under this Act, there shall elapse one whole calendar quarter after the Comptroller receives notice of adoption of the tax provided for in this Section, after which the additional Local Sales and Use Tax shall be effective in the adopting city beginning on the first day of the first calendar year next succeeding the elapsed quarter.

SECTION 2. Subsections A, B, and D, Section 4, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), are amended to read as follows:

A. Except as provided in Subsection D of this Section, in every city where the local sales and use tax has been adopted pursuant to the provisions of this Act, there is hereby imposed an excise tax on the storage, use, or other consumption within such city of tangible personal property purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the local sales and use tax for storage, use or other consumption in such city at the rate of one percent (1%), or one and one-half percent (1-1/2%) if the tax under Section 2A of this Act has been adopted, of the sales price of the property or, in the case of leases or rentals, of said lease or rental price. Except as provided in Subsection E of this Section, the local use tax is not owed to and may not be collected by, for, or in behalf of a city if no excise tax on the storage, use, or other consumption of an item of tangible personal property is owed to or collected by the State under the Limited Sales, Excise and Use Tax Act or if the tangible personal property is first stored, used, or consumed within a city or area that has not adopted the local sales or use tax.

B. Except as provided in Subsection D of this Section, in each city where the local sales and use tax has been imposed as provided in Section 2 or 2A of this Act, the excise tax imposed under the State Limited Sales, Excise and Use Tax Act on the storage, use, or other consumption of tangible personal property and the excise tax imposed by this Section of this Act shall be added together to form a combined rate of excise tax which is equal to the sum of the two taxes. The tax imposed by this Section of this Act shall be collected by the Comptroller on behalf of and for the benefit of such city. The bracket system formula prescribed in Subsection K of Section 2 or Subsection I of Section 2A of this Act shall be applicable to the collection of the excise tax imposed under this Section.

D. In every city where the local sales and use tax has been adopted under this Act, there is imposed an excise tax on the storage, use or other consumption within the city of gas and electricity for residential use purchased, leased or rented from any retailer on or after the effective date for collection of the sales tax portion of the local sales and use tax for storage, use or other consumption within the city at the rate of one percent (1%), or one and one-half percent (1-1/2%) if the tax under Section 2A of this Act has been imposed, of the sales price of the gas and electricity for residential use, or in the case of leases or rentals, of the lease or rental price. In every city where the local sales and use tax has been adopted under this Act, the excise tax imposed by this Section shall be calculated as provided in Subsection L, Section 2, or Subsection J, Section 2A of this Act and shall be collected by the Comptroller on behalf of and for the benefit of the city in the same manner as if the use, storage or other consumption of gas and electricity for residential use were not exempt under the Limited Sales, Excise and Use Tax Act.

SECTION 3. Subsection (a), Section 5, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) On and after the effective date of any tax imposed under the provisions of this Act, the Comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the Comptroller shall collect, in addition to the Limited Sales, Excise and Use Tax for

the State of Texas, an additional tax under the authority of this Act of one percent (1%), or at the rate of one and one-half percent (1-1/2%) if the tax under Section 2A of this Act has been adopted, on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within such city which property is subject to the State Limited Sales, Excise and Use Tax Act, and an additional tax of one percent (1%), or at the rate of one and one-half percent (1-1/2%) if the tax under Section 2A of this Act has been adopted, on the receipts on the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of gas and electricity for residential use within the city as provided in this Act unless exempted as provided in Section 4A of this Act. The tax imposed hereunder and the tax imposed under the Limited Sales, Excise and Use Tax Act shall be collected together, if both are imposed, and reported upon such forms and under such administrative rules and regulations as may be prescribed by the Comptroller not inconsistent with the provisions of this Act. On and after the effective date of any proposition to abolish such local sales and use tax, or the additional tax under Section 2A of this Act, in any city, the Comptroller shall comply therewith as provided in this Act.

SECTION 4. Paragraph (2), Subsection C, Section 6, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

(2) The receipts from the sale, use or rental of and the storage, use or consumption in this State, of taxable items are exempt from the tax imposed under Section 2 of [~~by~~] this Act, if:

(a) the items are used for the performance of a written contract entered into prior to the date the tax imposed under Section 2 of this Act takes effect in any city which may affect the contract, if the contract is not subject to change or modification by reason of the tax; or

(b) the items are used pursuant to an obligation of a bid or bids submitted prior to the date the tax imposed under Section 2 of this Act takes effect in any city which may affect the contract, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this Act; and

(c) if notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the Comptroller within sixty (60) days from the date the tax imposed under Section 2 of this Act takes effect in any city which may affect the bid or contract.

The exemption provided by this Subsection shall have no effect after three (3) years from the date the tax imposed under Section 2 of this Act takes effect in any city.

The receipts from the sale, use or rental of and the storage, use or consumption in this State, of taxable items are exempt from the additional tax imposed under this Act, if:

(a) the items are used for the performance of a written contract entered into prior to the date the additional tax takes effect in any city which may affect the contract, if the contract is not subject to change or modification by reason of the tax; or

(b) the items are used pursuant to an obligation of a bid or bids submitted prior to the date the additional tax takes effect in any city which may affect the contract, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this Act; and

(c) if notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the Comptroller within sixty (60) days from the date the additional tax takes effect in any city which may affect the bid or contract.

The exemption provided by this Subsection shall have no effect after three (3) years from the date the additional tax takes effect in any city.

SECTION 5. Section 9, Chapter 36, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. (a) Money collected under this Act is for the use and benefit of the cities of the state; but no city may pledge anticipated revenue from this source to secure the payment of bonds or other indebtedness.

(b) Beginning in the first full year occurring after the effective date of an additional city sales and use tax under this Act, the amount by which the revenue from the collection of the additional tax exceeds the city's effective maintenance and operating tax revenue from property taxes as defined in Section 26.04, Tax Code, shall be deposited in an account to be called the sales tax debt service fund and may be spent only for the reduction of lawful debts of the city. Any amount of additional revenue that exceeds the city's effective maintenance and operating tax plus the current debt service requirements for the city may be used for any city purpose consistent with its annual budget.

SECTION 6. Chapter 26, Tax Code, is amended by adding Section 26.051 to read as follows:

Sec. 26.051. TAX RATES OF CERTAIN CITIES. (a) In each tax year occurring after the effective date of a city sales and use tax under Section 2A of the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), the governing body of the city shall set its property tax rate under this section. If the city's tax rate is set under this section, Sections 26.04(c), (d), and (e), Section 26.05(c), Section 26.06, and Section 26.07 of this code do not apply in that tax year.

(b) In a tax year in which this section applies, an officer or employee designated by the governing body shall add the total amount of property taxes imposed by the unit in the preceding year and the amount deducted under Subdivision (6) of this subsection in the preceding year, if any. From that amount he shall subtract:

(1) the amount of taxes imposed in the preceding year to pay the principal of and interest on debt of the city and to pay lawfully incurred contractual obligations providing security for the payment of the principal of and interest on bonds or other evidences of indebtedness issued on behalf of the city by another political subdivision;

(2) the amount of taxes imposed in the preceding year on property in territory that has ceased to be a part of the city;

(3) the amount of taxes imposed in the preceding year on taxable value that is exempt in the current year;

(4) the amount of taxes imposed in the preceding year on taxable value that is not taxable in the current year because property appraised at market value in the preceding year is required by law to be appraised at less than market value in the current year;

(5) the amount of taxes imposed in the preceding year pursuant to Section 26.04(d) of this code, to recoup taxes lost in the year before as a result of an error or errors; and

(6) the amount of additional sales and use tax revenue determined as provided in Subsection (f) of this section, not to exceed the amount of taxes determined as provided by Subsections (b)(1) through (b)(5) of this section.

(c) The designated officer or employee shall calculate the tax rate that if applied to the total taxable value submitted to the governing body less the taxable value of new property would impose the amount of property taxes determined as provided by Subsection (b) of this section. He shall add to that rate the amount that, if applied to the total taxable value submitted to the governing body, will impose the amount of taxes needed to pay the principal of and interest on debt of the unit and to pay lawfully incurred contractual obligations providing security for the payment of the principal of and interest on bonds or other evidences of indebtedness issued on behalf of the unit by another political subdivision. If one or more errors on the appraisal roll for the previous year were discovered after adoption of the

unit's tax rate and if those errors resulted in the loss of more than one percent of the total appraised value for the unit in that year, he may also add to that rate the amount that, if applied to the total taxable value, will raise the rate calculated under this section to what it would have been if the errors had not occurred plus the amount that will recoup the amount of taxes lost in the preceding year as a result of the errors. He shall subtract from that rate the amount that, if applied to the total taxable value submitted to the governing body, would equal the balance showing in the city's sales tax debt service fund.

(d) By August 7 or as soon thereafter as practicable, the designated officer or employee shall publicize:

(1) the tax rate calculated as provided by this section and the calculations used to determine it in a manner designed to come to the attention of all owners of property in the unit and shall submit the rate to the governing body of the unit;

(2) the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding existing debt obligation; and

(3) a schedule of the city's debt obligations showing the amount of principal and interest that will be paid in the next year from property tax revenues, including payments of lawfully incurred contractual obligations providing security for the payment of the principal and interest on bonds and other evidences of indebtedness issued on behalf of the unit by another political subdivision.

(e) The governing body may not adopt a tax rate that exceeds the tax rate calculated as provided by this section by more than three percent. The governing body shall reduce a tax rate set by law or by vote of the electorate to the rate permissible under this subsection.

(f) In order to compute the amount of additional city sales and use tax revenue required in the formula in Subsection (b)(6) of this section, the designated officer or employee shall use the city sales and use tax revenue for the last preceding quarter for which the information is available as the basis for projecting sales and use tax revenue for the current tax year that is derived from the tax rate increase that resulted in the application of this section. If the city did not impose a sales and use tax under the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes) for the last preceding quarter, the designated officer or employee shall request that the comptroller of public accounts make an estimate of the tax revenue of the city required for the purposes of this section and shall use the amounts contained in that estimate. On receipt of a request under this section, the comptroller shall estimate the revenue of the city from the additional sales and use tax for the current tax year and necessary for the computations required by this section.

(g) In order to determine the amount of city sales and use tax revenue for the formula in Subsection (c) of this section in the first year following the adoption of a city sales and use tax, the designated officer or employee shall multiply the city sales and use tax revenue estimated as provided in Subsection (f) of this section by .95, and subtract from that product the amount deducted in Subsection (b)(6) of this section. Any amount remaining, not to exceed the current year's debt service described in Subsection (d)(3) of this section, shall be deposited in a fund to be known as the sales tax debt service fund. In all years following the first year of a city sales and use tax, the designated officer or employee shall further reduce the amount calculated pursuant to this subsection by the amount of the city's cumulative sales tax debt service fund.

(h) In this section, "debt" has the meaning assigned that term in Section 26.04 of this code.

SECTION 7. Subsection (f), Section 6A, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) Territory in which an election is held as provided in Subsections (b) or (c) of this section becomes a part of the authority on the 31st day after the election, if the voters approve the addition as provided in Subsections (b) or (c), and unless the board of the authority notifies the appropriate governing body in writing before that date that the addition, because it is not contiguous to the existing authority or because the addition would impair the imposition of the sales and use tax authorized by this Act, would create a fiscal hardship on the authority.

SECTION 8. Subsection (g), Section 11, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended to read as follows:

(g) Territory in which an election is held as provided in Subsection (b) or (d) of this section becomes a part of the authority on the 31st day after the election, if the voters approve the addition as provided in Subsection (b) or (d) of this section, and unless the executive committee of the authority notifies the appropriate governing body in writing before that date that the addition, because it is not contiguous to the existing authority or because the addition would impair the imposition of the sales and use tax authorized by this Act, would create a fiscal hardship on the authority.

Article 2

SECTION 1. This article may be cited as the County Sales and Use Tax Act. A reference in this article to this Act is a reference to the County Sales and Use Tax Act. The following words have the following meanings unless a different meaning clearly appears from the context:

(1) "Comptroller" means the comptroller of public accounts of the State of Texas.

(2) "City" means any incorporated city, town, or village in the State of Texas.

SECTION 2. (A) Any county no part of which is located in a rapid transit authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), by a majority vote of the qualified voters of the county voting at an election held for that purpose, may adopt a county sales and use tax for the benefit of the county in accordance with the provisions of this Act. An authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is prohibited from imposing the tax provided for in those Acts, if, within the boundaries of the authority there is a county that has adopted the county sales and use tax provided for in this section.

(B) The sales tax portion of any county sales and use tax adopted under this section is hereby imposed at the rate of one-half percent on the receipts from the sale at retail of all taxable items within any county adopting the tax which items are subject to taxation by the State of Texas under the provisions of the Limited Sales, Excise, and Use Tax Act, as enacted, and as heretofore or hereafter amended, and at the rate of one-half percent on the receipts from the sale at retail within the county of gas and electricity for residential use as defined by the state Limited Sales, Excise, and Use Tax Act.

(C) The commissioners court of a county may, by a majority vote of its members qualified and serving, or shall, upon petition of qualified voters of the county equal in number to at least 20 percent of the total number of votes cast in the last preceding countywide election, provide by order for the calling and holding of an election on such question.

(D) If such election is initiated by petition of qualified voters, the commissioners court shall have 30 days after receipt of such petition to determine the sufficiency thereof and, if such petition is sufficient, shall within 60 days after receipt of such petition pass the order calling such election.

(E) The order calling such election shall provide for the submission of such question at an election to be held not less than 30 days nor more than 90 days after the passage of the order. If the next regular countywide election is to be held during such period, the submission of such question shall be at such election; otherwise, a special election shall be called for the purpose.

(F) Notice of said election shall be given by causing a substantial copy of the order calling the election to be published on the same day of two successive weeks in a newspaper of general circulation published within the county, the date of the first publication to be at least 21 days prior to the date set for such election. If there be no newspaper published within the county, such order may be published in some newspaper having general circulation within the county.

(G) The ballot at such election shall be printed to provide for voting for or against the proposition: "Adoption of a one-half percent county sales and use tax within the county to be used to reduce the county property tax rate."

The election shall be conducted in the manner provided by law for other county elections unless otherwise specified herein. If a majority of the votes cast at such an election be in favor of the adoption of a county sales and use tax, the same shall be effective in the county as follows: In order to allow time for the comptroller's administrative duties under this Act, there shall elapse one whole calendar quarter after the comptroller receives notice of adoption of such tax provided for in this Act, after which such county sales and use tax shall be effective in the county beginning on the first day of the calendar year next succeeding such elapsed quarter.

(H) In any county in which a county sales and use tax has been imposed in the manner provided for herein, in the same manner and by the same procedure the county may by majority vote of the qualified voters of the county voting at an election held for that purpose abolish such tax. The ballot for any such election shall be printed to provide for voting for or against the proposition: "Abolition of the county sales and use tax within the county."

If a majority of the votes cast at any such election be in favor of the abolition of such tax, such county sales and use tax shall be thereby abolished in the county on the first day of the first calendar year that begins on or after the first day of the first county fiscal year that begins at least 30 days after the comptroller receives the notice of abolition of such tax.

(I) Within 10 days after any election held under the provisions of this section at which a majority of the qualified voters voting at such election in any county shall vote in favor of the adoption or the abolition of a county sales and use tax within the county, the commissioners court of the county shall canvass the returns of such election and by resolution entered in the minutes declare the result of such election. Thereafter, the county judge shall forward to the comptroller by United States Registered Mail or Certified Mail a certified copy of the resolution of the commissioners court canvassing the returns and declaring the result of such election. Such resolution shall reflect the date of the election in the county, the proposition voted on, the total number of votes cast for and against the proposition, the number of votes by which the proposition was approved, and whether or not residential use of gas and electricity is exempted from the taxes. If a majority of votes be found to be against any proposition, so that the tax status of the county under this Act is not changed, no notice of the results of the election shall be filed with the comptroller.

(J) In each county in which a county sales and use tax has been adopted as provided in this Act, every retailer shall add the tax imposed by the Limited Sales,

Excise, and Use Tax Act, plus any other local sales and use taxes applicable within the boundaries of the county, and the tax imposed by this Act to his sales price, and when added, the combined tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The combined taxes on a transaction shall be determined by multiplying the amount of the sale by the total of the combined applicable tax rates. Any fraction of one cent which is less than one-half of one cent shall not be collected. Any fraction of one cent equal to one-half of one cent or more shall be collected as one whole cent. Provided, however, that any retailer who can establish to the satisfaction of the comptroller that 50 percent or more of his receipts from the sale of tangible personal property and taxable services arise from individual transactions where the total sales price is less than the minimum amount on which the tax is collectable may exclude the receipts from such sales when reporting and paying the tax imposed under this Act and the Limited Sales, Excise, and Use Tax imposed by the State of Texas. No retailer shall avail himself of this provision without prior written approval of the comptroller. The comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the authorized exclusion. Any attempt on the part of any retailer to exercise this provision without prior written approval of the comptroller shall be deemed to be a failure and refusal to pay the taxes imposed by this Act and the Limited Sales, Excise, and Use Tax Act, and the retailer shall be subject to assessment for both taxes, penalties, and interest as provided for in this Act and the Limited Sales, Excise, and Use Tax Act.

(K) In each county in which a county sales and use tax has been imposed in the manner provided by this Act, every retailer selling gas or electricity for residential use shall add the tax imposed by this Act to his sales price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The amount of the tax on the sale at retail of gas and electricity for residential use shall be calculated by multiplying the amount of the tax by the sales price. Any fraction of one cent which is less than one-half of one cent shall not be collected. Any fraction of one cent of tax equal to one-half of one cent or more shall be collected by the retailer as a whole cent of tax. The comptroller may publish a schedule based on the above formula for counties imposing a tax on the sale at retail of gas and electricity for residential use.

SECTION 3. No election on a proposition to adopt a county sales and use tax in a county or to abolish such tax in a county shall be held within one year from the date of the last preceding election in the county on any of such propositions.

SECTION 4. (A) Except as provided in Subsection (D) of this section, in every county where the county sales and use tax has been adopted pursuant to the provisions of this Act, there is hereby imposed an excise tax on the storage, use, or other consumption within such county of tangible personal property purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the county sales and use tax for storage, use, or other consumption in such county at the rate of one-half percent of the sales price of the property or, in the case of leases or rentals, of said lease or rental price. Except as provided in Subsection (E) of this section, the county use tax is not owed to and may not be collected by, for, or in behalf of a county if no excise tax on the storage, use, or other consumption of an item of tangible personal property is owed to or collected by the state under the Limited Sales, Excise, and Use Tax Act or if the tangible personal property is first stored, used, or consumed within a county or area that has not adopted the county sales or use tax.

(B) Except as provided in Subsection (D) of this section, in each county where the county sales and use tax has been imposed as provided in Section 2 of this Act,

the excise taxes imposed under the state Limited Sales, Excise, and Use Tax Act and under other applicable sales and use taxes on the storage, use, or other consumption of tangible personal property and the excise tax imposed by this section of this Act shall be added together to form a combined rate of excise tax which is equal to the sum of the applicable taxes. The tax imposed by this section shall be collected by the comptroller on behalf of and for the benefit of the county.

(C) The provisions of the Limited Sales, Excise, and Use Tax Act relating to the storage and use tax portion of the state tax is applicable to the collection of the tax imposed by this section; provided that in Subchapter D, Chapter 151, Tax Code, the name of the county where the county sales and use tax has been adopted shall be substituted for that of the state where the words "this State" are used to designate the taxing authority or to delimit the tax imposed.

(D) In every county where the county sales and use tax has been adopted under this Act, there is imposed an excise tax on the storage, use, or other consumption within the county of gas and electricity for residential use purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the county sales and use tax for storage, use, or other consumption within the county at the rate of one-half percent of the sales price of the gas and electricity for residential use, or in the case of leases or rentals, of the lease or rental price. In every county where the county sales and use tax has been adopted under this Act, the excise tax imposed by this section shall be calculated as provided in Section 2(K) of this Act and shall be collected by the comptroller on behalf of and for the benefit of the county in the same manner as if the storage, use, or other consumption of gas and electricity for residential use were not exempt under the Limited Sales, Excise, and Use Tax Act.

(E) If a sale of tangible personal property is consummated within the state but not within a county that has adopted the taxes imposed by this Act and the tangible personal property is shipped directly into or brought by the purchaser or lessee directly into a county that has adopted the taxes imposed by this Act, the tangible personal property is subject to the county use tax imposed by the county under Subsection (A) of this section. The use is considered consummated at the location where the item is first stored, used, or otherwise consumed after the intrastate transit has ceased.

(F) If the tangible personal property is shipped from outside this state to a customer within this state, the tangible personal property is subject to the use tax imposed by Subsection (A) of this section and not the sales tax imposed by Subsection (B), Section 2 of this Act. The use is consummated at the first point in this state where the property is stored, used, or otherwise consumed after interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or other consumption at that point until the contrary is established.

SECTION 4A. (A) There are exempted from the taxes imposed by this Act the receipts from the sale, production, distribution, lease or rental of, and the storage, use, or other consumption within the county of gas and electricity for residential use within the county adopting the taxes imposed by this Act unless:

(1) the commissioners court in the order calling the election under Section 2(E) of this Act states that the taxes if adopted will apply to the receipts from the sale, production, distribution, lease or rental of and the storage, use, or other consumption within the county of gas and electricity for residential use; or

(2) at any time after the adoption of the taxes imposed by this Act, the commissioners court by a majority of the membership of the commissioners court orders the imposition of the taxes on the receipts from the sale, production, distribution, lease or rental of, and the storage, use, or other consumption within the county of gas and electricity for residential use.

(B) At any time, the commissioners court of a county that has adopted the taxes imposed by this Act, by a majority vote of the membership of the commissioners court, may exempt from the taxes imposed by this Act the receipts from the sale, production, distribution, lease or rental of, and the storage, use, or other consumption within the county of gas and electricity for residential use. The commissioners court of a county that has adopted the tax authorized by this Act and provided for the exemption authorized by this section may, by a majority vote of the membership of the commissioners court, reimpose the taxes on the sale, production, distribution, lease or rental of, and the storage, use, or other consumption in the county of gas and electricity for residential use.

(C) If the commissioners court votes for the exemption authorized by this section or for the reimposition of the tax under this section, the results of the vote must be entered in the minutes of the commissioners court. Thereafter the county judge shall forward to the comptroller by United States Registered Mail or Certified Mail a copy of the ordinance. On actual receipt by the comptroller of the notification, there shall elapse one whole calendar quarter prior to the exemption or reimposition becoming effective. The exemption or reimposition shall take effect beginning on the first day of the calendar quarter next succeeding the elapsed quarter.

SECTION 5. (A) On and after the effective date of any tax imposed under the provisions of this Act, the comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the comptroller shall collect, in addition to the Limited Sales, Excise, and Use Tax for the State of Texas, an additional tax under the authority of this Act of one-half percent on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within the county which property is subject to the state Limited Sales, Excise, and Use Tax Act, and an additional tax of one-half percent on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of gas and electricity for residential use within the county as provided in this Act unless exempted as provided in Section 4A of this Act. The tax imposed hereunder and the tax imposed under the Limited Sales, Excise, and Use Tax Act shall be collected together, if both are imposed, and reported on such forms and under such administrative rules as may be prescribed by the comptroller not inconsistent with the provisions of this Act. On and after the effective date of any proposition to abolish a county sales and use tax in any county, the comptroller shall comply therewith as provided in this Act.

(B) The comptroller shall make quarterly reports to a county that has adopted this Act and is imposing the tax if the county requests the reports. The report must contain the name, address, and account number of each person, firm, or corporation doing business in the county and which has remitted a payment of the tax during the quarter covered by the report.

(C) The comptroller shall make an additional quarterly report to a county that has adopted this Act and is imposing the tax if the county requests the additional report. The additional report must include the name, address, and account number, if any, of and the amount of the tax due by each person, firm, or corporation doing business in the county and which has failed to pay the tax imposed by the county or imposed under the Limited Sales, Excise, and Use Tax Act. The report by the comptroller shall also state whether there has been a partial payment of tax by the delinquent taxpayer, whether the taxpayer is delinquent in payment of sales and use taxes to the state, and what steps, if any, have been taken by the comptroller in order to collect the delinquent taxes.

(D) If a county determines that any person, firm, or corporation doing business in the county is not included in a report from the comptroller, the county

shall report the name and address of the person, firm, or corporation to the comptroller. On receiving a report from a county the comptroller shall send, before the expiration of a 90-day period following the day the comptroller received a report from the county, an explanation as to why the person, firm, or corporation is not obligated for the tax imposed by the county, a statement that the person, firm, or corporation is obligated to pay the tax and that the tax is delinquent, or a certification that the person, firm, or corporation is obligated to pay the tax and that the full amount due under the tax has been credited to the account of the county.

SECTION 6. The following provisions shall govern the collection by the comptroller of the tax imposed by this Act:

(A) All applicable provisions contained in Subtitles A and B and Chapter 151, Title 2, Tax Code, shall apply to the collection of the tax imposed by this Act, except as modified in this Act.

(B)(1) For the purposes of the county sales and use tax, "place of business of the retailer" means an established outlet, office, or location operated by the retailer, his agent, or employee for the purpose of receiving orders for taxable items. The term "place of business of the retailer" includes any location at which three or more orders are received by the retailer in a calendar year. A warehouse, storage yard, or manufacturing plant may not be considered a "place of business of the retailer" unless three or more orders are received by the retailer in a calendar year at such warehouse, storage yard, or manufacturing plant. Each "place of business of the retailer" must have a permit issued by the comptroller in accordance with Subchapter F, Chapter 151, Tax Code. For the purpose of determining the proper county sales tax imposed by this Act, a retail sale, lease, or rental is consummated as provided in Paragraphs (a), (b), (c), and (d) of this subdivision, regardless of where transfer of title or possession or segregation in contemplation of transfer of title or possession of the taxable item occurs unless the tangible personal property sold, leased, or rented is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination.

(a) If a retailer has only one place of business within this state, all retail sales, leases, and rentals of the retailer are consummated at that place of business, except as provided in Paragraph (d) of this subdivision.

(b) If a retailer has more than one place of business in this state, the retailer's place of business where the purchaser or lessee takes possession of and removes an item of tangible personal property is the place of business where the sale, lease, or rental of that item is consummated. If, however, the retailer ships or delivers the tangible personal property to a point designated by the purchaser or lessee, then the retailer's place of business from which the tangible personal property is shipped or delivered to the purchaser or lessee is the place of business where the sale, lease, or rental is consummated.

(c) If neither possession of tangible personal property is taken at nor shipment or delivery of the tangible personal property is made from the retailer's place of business within this state, the sale, lease, or rental is consummated at the retailer's place of business within the state where the order is received or if the order is not received at a place of business of the retailer, at the place of business from which the retailer's salesman who took the order operates.

(d) When transfer of possession of tangible personal property occurs at or shipment or delivery originates from a location within the state other than a place of business of the retailer, the sale, lease, or rental is consummated at the location within this state to which the tangible personal property is shipped or delivered or at which possession is taken by the customer when:

(i) the retailer is an itinerant vendor and has no place of business, or

(ii) the retailer's place of business where the purchase order is initially received or from which the retailer's salesman who took the order operates is outside the state, or

(iii) the purchaser places the order directly with the retailer's supplier and the property is shipped or delivered directly to the purchaser by the supplier.

(e) The sale of natural gas or electricity is consummated at the point of delivery to the consumer.

(2) For the purpose of the excise tax imposed by this Act on any retailer holding tangible personal property purchased on a resale certificate, and which property becomes subject to such excise tax by reason of use or other consumption of such property, such use or other consumption of such property is consummated at the place where the property is stored or kept at the time of or just prior to its use or consumption, unless the tangible personal property is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination.

(3) For the purpose of determining the proper county use tax imposed by this Act, a holder of a direct payment permit issued by the comptroller under the Limited Sales, Excise, and Use Tax Act who becomes liable for the county use tax by reason of storage, use, or other consumption of taxable items purchased in this state under a direct payment exemption certificate, shall allocate the tax to the county in which the taxable item was first removed from the permit holder's storage, or if not stored, the place at which the items are first used or consumed by the permit holder after transportation. As used in this paragraph, storage, use, or other consumption may not include a temporary delay or interruption necessary and incident to the transportation or further fabrication, processing, or assembling of taxable items within this state for delivery to the permit holder. A charge for processing, fabrication, or further assembly in a county that has adopted the county use tax shall be subject to the county use tax. If a taxable item is first stored, used, or consumed within a county that has not adopted the tax imposed by this Act or outside of a county, no county use tax is due.

(C)(1) All exemptions granted to agencies of government, organizations, persons, and to the sale, storage, use, and other consumption of certain articles and items taxable under the provisions of Subchapter H, Chapter 151, Tax Code, are hereby made applicable to the imposition and collection of the tax imposed by this Act, except the sale of gas and electricity for residential use.

(2) The receipts from the sale, use, or rental of and the storage, use, or consumption in this state of taxable items are exempt from the tax imposed by this Act, if:

(a)(i) the items are used for the performance of a written contract entered into prior to the date this Act takes effect in any county which may affect the contract, if the contract is not subject to change or modification by reason of the tax, or

(ii) the items are used pursuant to an obligation of a bid or bids submitted prior to the date this Act takes effect in any county which may affect the contract, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this Act; and

(b) notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the comptroller within 60 days from the date this Act takes effect in any county which may affect the bid or contract.

(3) The exemption provided by this subsection shall have no effect after three years from the date this Act takes effect in any county.

(D) The same sales tax permit, exemption certificate, and resale certificate required by the Limited Sales, Excise, and Use Tax Act for the administration and collection of the state Limited Sales, Excise, and Use Tax shall satisfy the requirements of this Act, and no additional permit or exemption certificate or resale certificate shall be required; except that the comptroller may prescribe a form of exemption certificate for an exemption from the tax imposed by this Act as a result of a prior contract under Subsection (C) of this section.

(E) All discounts allowed the retailer under the provisions of the Limited Sales, Excise, and Use Tax Act for the collection of and for prepayment of taxes under that Act are hereby allowed and made applicable to any taxes collected under the provisions of this Act.

(F) The penalties provided in the Limited Sales, Excise, and Use Tax Act for violations of that Act are hereby made applicable to violations of this Act.

SECTION 7. (A) Each county sales and use tax collected by the comptroller under this Act shall be deposited with the state treasurer in trust and shall be kept in a separate suspense account for the county.

(B) The comptroller, and any of the comptroller's deputies, assistants, and employees who shall have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of funds which come into the hands of the comptroller under the provisions of this Act, shall enter into a surety bond or bonds payable to any and all counties in whose behalf such funds have been collected under this Act in the amount of $100,000; provided that the comptroller may enter into a blanket bond or bonds covering himself and all such deputies, assistants, and employees. The cost of the premium or premiums for such surety bond or bonds shall be paid by the comptroller from the share of such collections retained by the comptroller for the benefit of the state. At any time when any premium or premiums on such bond or bonds are due and payable, the comptroller shall pay the cost of same out of the state's share of such collection in his hands and deposit the balance of the state's share as provided in Section 8 of this Act. Separate bonds are not required for compliance with this subsection and with Subsection B, Section 7, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), if cities and counties are protected in a single bond.

SECTION 8. Each county's share of all county sales and use tax collected under this Act by the comptroller shall be transmitted to the county treasurer by the comptroller payable to the county periodically as promptly as feasible. Transmittals required under this Act shall be made at least twice in each state fiscal year. Before transmitting any funds collected under this Act to a county, the comptroller shall deduct two percent of the total amount collected from each county as a charge by the State of Texas for its services specified in this Act, and the amounts so deducted, subject to the provisions of Section 7(B) of this Act, shall be deposited by the comptroller in the state treasury to the credit of the general revenue fund of the state. The comptroller is authorized to retain in the suspense account of any county a portion of the tax collected under this Act. Such balance so retained in the suspense account shall not exceed five percent of the amount remitted to the county. The comptroller is authorized to make refunds from the suspense account of any county for overpayments made to such accounts, and to redeem dishonored checks and drafts deposited to the credit of the proper suspense accounts. When any county shall adopt the county sales and use tax and shall thereafter abolish such tax, the comptroller may retain in the suspense account of such county for a period of one year five percent of the final remittance to each such county at the time of termination of collection of such tax in the county to cover possible refunds for overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of such tax in the county, the comptroller shall remit the balance in such account to the county and close the account.

SECTION 9. Money collected under this Act is for the use and benefit of the county to which the funds are distributed and may be used for the replacement of property tax revenue lost as a result of the adoption of the taxes authorized by this Act. The revenue in excess of the revenue used to replace those property taxes shall be used for the reduction of indebtedness of the county. After all indebtedness is

paid, then the excess may be used for any purpose for which county general revenue may be used. A county may not pledge anticipated revenue from this source to secure the payment of bonds or other indebtedness for a period of longer than one year.

SECTION 10. The comptroller may promulgate reasonable rules, not inconsistent with the provisions of this Act, to implement the enforcement, administration, and collection of the taxes authorized herein.

SECTION 11. (A) In any county where the county sales and use tax has been imposed, if any person is delinquent in the payment of the amount required to be paid by him under this Act, or in the event a determination has been made against him for taxes and penalty under this Act, the limitation for bringing suit for the collection of such delinquent tax and penalty shall be the same as that provided by the Limited Sales, Excise, and Use Tax Act. Where any person is delinquent in payment of taxes under this Act, the comptroller shall notify the county attorney of the county to which delinquent taxes are due under this Act by United States Registered Mail or Certified Mail and shall send a copy of the notice to the attorney general. The county, acting through its attorney, may join in any suit brought by the attorney general as a party plaintiff to seek a judgment for the delinquent taxes and penalty due the county. The notice sent by the comptroller to the county attorney showing the delinquency of a taxpayer for the county sales and use tax constitutes a certification of the amount owed and is prima facie evidence of the determination of the tax and of the delinquency of the amounts of the county sales and use tax set forth in the notice.

(B) Where property is seized by the comptroller under the provisions of any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the state Limited Sales, Excise, and Use Tax Act, and where such taxpayer is also delinquent in payment of any tax imposed by this Act, the comptroller shall sell sufficient property to pay the delinquent taxes and penalty due any county under this Act in addition to that required to pay any amount due the state under the Limited Sales, Excise, and Use Tax Act. The proceeds from such sale shall first be applied to all sums due the state, and the remainder, if any, shall be applied to all sums due the county.

(C)(1) A county that has adopted the tax authorized by this Act may bring suit for the collection of sales, excise, or use taxes imposed by this Act which have been certified as provided in Subsection (A) of this section and are owed to the county under this Act if at least 60 days before the filing of the suit, written notice by certified mail of the tax delinquency and of the intention to file suit is given to the taxpayer, the comptroller, and the attorney general and if neither the comptroller nor the attorney general disapproves the suit by written notice to the county.

(2) The comptroller or attorney general may disapprove the institution of a tax suit by a county if:

(a) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the county seeking to bring suit;

(b) the taxpayer owes substantial taxes to the state, and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed in full;

(c) the state will bring suit against the taxpayer for the collection of all sales, excise, and use taxes due under the Limited Sales, Excise, and Use Tax Act and this Act; or

(d) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States Constitution in which the state has an overriding interest.

(3) A notice of disapproval to a county must give the reason for the determination of the comptroller or attorney general. A disapproval is final and not

subject to review. A county, after one year from the date of the disapproval, may proceed again as provided in Subdivision (1) of Subsection (C) of this section, even though the liability of the taxpayer includes taxes for which the county has previously given notice and the comptroller or attorney general has previously disapproved the suit.

(4) In any suit under this subsection for the collection of the county tax, a judgment for or against the taxpayer does not affect any claim against the taxpayer by another county, a city, or the state unless the state is a party to the action.

(5) A copy of the final judgment in favor of a county in a case in which the state is not a party shall be abstracted by the county and a copy of the judgment together with a copy of the abstract shall be sent to the comptroller. The county shall collect the taxes awarded to it under the judgment as provided by Section 151.608(e), Tax Code, and is responsible for the renewal of the judgment before the expiration of the 10-year period. If a collection is made by a county on a judgment, the amount collected shall be sent to the comptroller for deposit in the suspense account of the county.

SECTION 12. (A) If the validity of any election held under authority of this Act or the result of such election based on the returns thereof shall be contested, such election contest shall be filed and tried as provided in the Election Code of the State of Texas; provided that the contestant shall notify the comptroller by United States Registered Mail or Certified Mail within 10 days after filing such contest by mailing a copy of such notice of contest to the comptroller showing the style of the contest, the date filed, the case number, and the court in which the same is pending; and provided further that no such contest shall be heard unless the comptroller is timely notified as provided herein.

(B) On receipt of a notice of contest, the date on which such tax shall become effective in any county, or abolished in any county, as a result of such election shall be suspended. When a final judgment shall be entered in such election contest, the county judge shall notify the comptroller by United States Registered Mail or Certified Mail and shall enclose a certified copy of such final judgment. If the judgment sustains the validity of such election or the result of such election so that the tax status under this Act of such county is changed, the comptroller shall place in effect such tax or abolish the same, as the case may be, in the county substituting the notice of final judgment and the date on which it is received for the notice of the result of such election elsewhere provided for in this Act.

SECTION 13. Section 26.04, Tax Code, is amended by adding Subsections (i) and (j) to read as follows:

(i) In a county that imposes a tax under the County Sales and Use Tax Act, the designated officer or employee shall calculate the total effective tax rate for the county by calculating the effective tax rate under this section for each separate county tax and adding those effective tax rates together, and subtracting from that rate the tax rate that, if applied to the total taxable value submitted to the governing body, would produce an amount equal to the amount of county sales and use tax revenue for the current tax year determined as provided by Subsection (j) of this section.

(j) In order to compute the amount of county sales and use tax revenue for the current year required in the formula in Subsection (i) of this section, the designated officer or employee shall use the county sales and use tax revenue for the last preceding quarter for which the information is available as the basis for projecting sales and use tax revenue for the current tax year. If the county did not impose a sales and use tax for the last preceding quarter, the designated officer or employee shall request that the comptroller of public accounts make an estimate of the county sales and use tax revenue required for purposes of Subsection (i) of this section and shall use the amount contained in that estimate. On receipt of a

request under this subsection, the comptroller shall estimate the county sales and use tax revenue for the current tax year as necessary for the calculation required by Subsection (i) of this section.

Article 3

SECTION 1. Title 28, Revised Statutes, is amended by adding Article 1118z to read as follows:

Art. 1118z. CITY TRANSIT DEPARTMENTS

Sec. 1. DEFINITIONS. In this article:

(1) "Board" means the body that governs a mass transit department.

(2) "City council" means the legislative body of an incorporated city or town.

(3) "Comptroller" means the state comptroller of public accounts.

(4) "Department" means a mass transit department created under this article.

(5) "Mass transit" means the transportation of passengers and their hand-carried packages or baggage by any means of surface, overhead, or underground transportation except aircraft or taxicab.

(6) "System" means all real and personal property owned or held by an incorporated city or town and operated by a department for mass transit purposes, including land, easements, rights-of-way, other interests in land, franchises, rail and bus lines, stations, platforms, terminals, garages, shops, control houses, other buildings and structures, rolling stock, signals, other equipment, supplies, and other facilities necessary or convenient for the use of or access to mass transit by persons or vehicles or for the protection or environmental enhancement of mass transit.

Sec. 2. APPLICATION OF ARTICLE. (a) This article applies only to an incorporated city or town that operates a mass transportation system and has a population of 56,000 or more, according to the most recent federal census. This article does not apply to a city or town that is located wholly or partly either in a county that contains territory within the corporate limits of a "principal city," or within a federal metropolitan statistical area or primary metropolitan statistical area that contains a "principal city," as that term is defined by Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

(b) When an incorporated city or town to which this article applies has created a department for which a tax has been approved under this article, the city or town and the department remain within the coverage of this article regardless of any requirement of Subsection (a) of this section.

Sec. 3. CREATION OF DEPARTMENT. (a) The city council of an incorporated city or town to which this article applies by ordinance or resolution may create a mass transit department if the council determines that the creation of a department and operation of a system would be in the public interest and of benefit to persons residing in the city or town.

(b) Members of a city council that creates a department serve as members of the board of the department. A member serves without compensation for service on the board and as an additional duty arising from the member's service on the city council.

(c) The jurisdictional boundaries of a department are the same as the corporate limits of the city or town whose city council created the department.

Sec. 4. ADMINISTRATION OF DEPARTMENT. (a) The board of a department is responsible for the general administration and operation of the department.

(b) The presiding officers of a city council that creates a department are the presiding officers of the board of the department. The board shall hold at least one regular meeting each month for the purpose of transacting business of the department. The presiding officer may call special meetings of the board. A majority of the members is a quorum.

(c) The board of a department may invest and reinvest funds of the department in any obligation, security, or evidence of indebtedness in which the city or town whose city council created the department may invest other municipal funds. In making investments of departmental funds, a board shall exercise the judgment and care, under the circumstances prevailing at the time of investment, that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in speculation but when making a permanent disposition of their funds, considering the probable income from the disposition and the probable safety of their capital. The board shall deposit all funds of the department except funds invested as provided by this subsection with the city treasurer for deposit in two separate accounts for the department.

(d) A board member or employee of a department may not be pecuniarily interested in or benefitted by any contract or agreement to which the department is a party.

(e) A city council that creates a department may transfer to the department real or personal property or municipal employees of any division of the city or town that had responsibility for municipal public transportation before the date the department was created and may abolish or change the functions of that division. The city council may transfer to the department municipal funds not prohibited by law from being used for mass transit purposes. The board shall deposit those funds as provided by Subsection (c) of this section in an account separate from an account for funds collected as provided by Section 8 of this article and may transfer the funds back to the city or town at any time.

(f) A city or town whose city council creates a department is liable for all expenses of the department incurred before the date a tax is approved for the department at an election held as provided by Section 5 of this article, including the costs of holding the election.

Sec. 5. TAX ELECTION. (a) When the board of a department considers implementation of a mass transit plan developed by the department to be feasible, the board shall, unless an additional sales and use tax has been imposed within the city under Section 2A of the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes), call an election to establish a source of continuing revenue for mass transit in the form of an additional local sales and use tax in an amount determined by the board as provided by Subsection (a) of Section 8 of this article. An election under this section may not be scheduled or held on the same day as an election held under the County Sales and Use Tax Act within the county in which the city is located or an election held under Section 2A, Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes) by the city.

(b) Except as provided by this section, notice and conduct of an election under this section must comply with state election laws. Notice of the election must include a description of the nature and rate of any proposed tax. The board shall send copies of the notice to the State Department of Highways and Public Transportation and to the comptroller.

(c) At an election under this section, the ballots shall be prepared to provide for voting for or against the proposition: "Levy of a proposed local sales and use tax of 1/2 percent."

(d) Immediately after the election, the presiding judge of each municipal election precinct shall return the results to the board, and the board shall canvass the returns and declare the results.

(e) If a majority of the votes cast at the election is in favor of the levy of the proposed tax, the board shall enter the results in its minutes and adopt an order requiring implementation of the mass transit plan. If a majority of the votes cast at the election is opposed to the levy of the proposed tax, the board shall enter in its minutes an order so declaring and shall dissolve the department as soon as is

practicable. If a department is required to be dissolved under this section or Section 10 of this article, the board on dissolution shall transfer back to the city or town any funds, property, or employees transferred to the department as provided by Subsection (e) of Section 4 of this article. The city council may then recreate or change the duties of any division of municipal government abolished or changed as a result of transfers made as provided by Subsection (e) of Section 4 of this article.

(f) The board shall file a certified copy of an order under Subsection (e) of this section with the State Department of Highways and Public Transportation, with the comptroller, and in the deed records of the county.

Sec. 6. POWERS OF DEPARTMENT. (a) Except for the administration of assets transferred under Subsection (e) of Section 4 of this article, the powers of a department enumerated in this section may be exercised only after a tax has been approved under Section 5 of this article.

(b) A department may acquire, in the name of the city or town whose council created it, by grant, purchase, gift, devise, lease, or otherwise and may hold, use, sell, lease, or dispose of in the name of the city or town real and personal property, licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers under this article.

(c) A department may acquire, construct, own, operate, and maintain a system within the city or town. A department may use the streets, alleys, roads, highways, and other public ways within the city or town. In the construction, reconstruction, repair, maintenance, or operation of a system, a department may relocate, raise, reroute, change the grade of, or otherwise alter the construction of any:

(1) street, alley, highway, road, or railroad;

(2) electric lines and facilities;

(3) telegraph and telephone properties and facilities;

(4) pipelines and facilities;

(5) conduits and facilities; or

(6) other property whether publicly or privately owned.

(d) A department may not alter or damage the property or facilities of the state, its agencies, or political subdivisions or of owners rendering public services, or may not disrupt services being provided by others or otherwise inconvenience the owners of property or facilities, without having first obtained the written consent of the owners or having first obtained from the city council the right to take the action under the municipality's power of eminent domain. A department may enter into agreements providing for the necessary relocations or alterations of property or facilities by the owners or contractors chosen by the owners and for the reimbursement by the department to owners of the costs incurred by the owners in making the relocations or alterations or in causing them to be made. A department shall pay the cost of any relocation, raising, lowering, rerouting, changes in grade or other alterations in the construction made under this section and is liable for any damage to property occurring because of the change.

(e) A department may enter into agreements with any other public utility, private utility, communication system, common carrier, or transportation system for the joint use of its facilities, installations, or properties within the city or town and may establish through routes, joint fares, or transfer of passengers.

(f) The board of a department shall, after a public hearing, establish and maintain rates, fares, tolls, charges, rents, or other compensation for the use of the facilities of the system acquired, constructed, operated, regulated, or maintained by the department that are reasonable and nondiscriminatory and, together with receipts from taxes levied by the department, are sufficient to produce revenues adequate:

(1) to pay all expenses necessary to the operation and maintenance of the properties and facilities of the department;

(2) to pay the interest on and principal of all bonds issued by the board under this article payable in whole or in part from the revenues, as they become due and payable;

(3) to pay all sinking fund and reserve fund payments agreed to be made in respect to any bonds, and payable out of taxes and revenues, as they become due and payable; and

(4) to fulfill the terms of any agreements made with the holders of bonds or with any person in their behalf.

(g) A department may make contracts, leases, and agreements with, and accept grants and loans from the United States of America, its departments and agencies, the state, its agencies and political subdivisions, and public or private corporations and persons and may generally perform all acts necessary for the full exercise of the powers vested in it. A department may acquire rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement. Any revenue bond indenture may provide limitations on the exercise of the powers granted by this section, and the limitations apply so long as any of the revenue bonds issued pursuant to the indenture are outstanding and unpaid.

(h) A department may sell, lease, convey, or otherwise dispose of any of its rights, interests, or properties held in the name of the city or town and not needed for, or, in the case of leases, not inconsistent with the efficient operation and maintenance of the system. It may sell, lease, or otherwise dispose of, at any time, any surplus materials or personal or real property not needed for its requirements or for the purpose of carrying out its powers under this article.

(i) A department shall determine all routings and change them whenever the board considers it advisable.

(j) Nothing in this article shall operate to confer or convey any governmental immunity or limitation of liability to any entity which is not a governmental entity, authority, "unit of government" as defined in Subdivision (1) of Section 2 of the Texas Tort Claims Act (Article 6252-19, Vernon's Texas Civil Statutes), public agency, or subdivision thereof.

Sec. 7. BONDS AND NOTES. (a) A department may issue revenue bonds and notes from time to time and in such amounts as the board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of the system. All bonds and notes are fully negotiable and may be made redeemable before maturity, at the option of the issuing department, at such price or prices and under such terms and conditions as may be fixed by the issuing department in the resolution authorizing the bonds or notes, and may be sold at public or private sale, as the board determines.

(b) Before delivery, all bonds and notes authorized to be issued and the records relating to their issuance must be submitted to the attorney general for examination. If the attorney general finds that they have been issued in accordance with the constitution and this article and that they will be binding obligations of the department issuing them, the attorney general shall approve them, and the comptroller shall register them. After approval, registration, and sale and delivery of the bonds to the purchaser, they are incontestable.

(c) In order to secure the payment of the bonds or notes, the department may encumber and pledge all or any part of the revenue realized from any tax the department is authorized to levy, and all or any part of the revenues of the system, may mortgage and encumber all or any part of the properties of the system, and everything pertaining to them acquired or to be acquired, and may prescribe the terms and provisions of the bonds and notes in any manner not inconsistent with this article. If not prohibited by the resolution or indenture relating to outstanding bonds or notes, a department may encumber separately any item or items of real

estate or personalty, including motor buses, transit cars, other vehicles, machinery, and other equipment of any nature, and acquire, use, hold, or contract for any property under any lease arrangement, chattel mortgage, or conditional sale, including but not limited to transactions commonly known as equipment trust transactions.

(d) Refunding bonds or notes may be issued for the purposes and in the manner provided by Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes), or other law.

(e) Whenever the revenues of any system are encumbered under this article, the expenses of operation and maintenance, including all salaries, labor, materials, and repairs necessary to render efficient service, and every proper item of expense are a first lien and charge against the revenues.

(f) All bonds and notes are legal and authorized investments for banks, trust companies, savings and loan associations, and insurance companies. The bonds and notes are eligible to secure the deposit of public funds of the state, cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the state. The bonds and notes are lawful and sufficient security for the deposits to the extent of the bonds' principal amount or market value, whichever is less, when accompanied by all unmatured coupons appurtenant to them.

(g) Bonds payable solely from revenues may be issued by resolution of the board. Bonds, except refunding bonds, payable wholly or partially from taxes, may not be issued until authorized by a majority vote of the qualified voters of the city or town voting in an election.

Sec. 8. LOCAL SALES AND USE TAX. (a) Subject to approval at a tax election in accordance with this article, the board of a department may levy and collect a local sales and use tax for financing of the system, the sales tax portion of which applies to receipts from the sale of all taxable items within the city or town that are subject to taxation under the Limited Sales, Excise, and Use Tax Act, Chapter 151, Tax Code. The effective date of a local sales and use tax is the first day of the second calendar quarter that begins after the date the comptroller receives, under Subsection (f) of Section 5 of this article, notice of an order, except as provided by Subsection (w) of this section. The permissible rates for a local sales and use tax levied under this article are:

(1) one-eighth of one percent;

(2) one-quarter of one percent;

(3) three-eighths of one percent;

(4) one-half of one percent;

(b) Every retailer within the city or town shall add the tax imposed by the Limited Sales, Excise, and Use Tax Act, any applicable local sales and use tax, and the tax imposed under this section to the retailer's sale price, and when added, the combined tax is a part of the price, is a debt of the purchaser to the retailer until paid, and is recoverable at law in the same manner as the purchase price. The combined taxes on the transaction are determined by multiplying the amount of the sale by the total of the combined applicable tax rates. Any fraction of one cent less than one-half of one cent of tax may not be collected. Any fraction of one cent of tax equal to one-half of one cent or more shall be collected by the retailer as a whole cent of tax. After receiving written approval from the comptroller, a retailer who can establish to the satisfaction of the comptroller that 50 percent or more of the retailer's receipts from the sale of taxable items arise from individual transactions in which the total sales price when multiplied by the combined rates of the taxes imposed under the Limited Sales, Excise, and Use Tax Act, any applicable local sales and use tax, and the tax imposed under this section equals an

amount that is less than one-half of one cent may exclude the receipts from sales when reporting and paying the taxes imposed under this section and the Limited Sales, Excise, and Use Tax Act and any applicable local sales and use tax. Any attempt on the part of any retailer to exercise this provision without prior written approval of the comptroller is a refusal to pay the taxes imposed by this section and the Limited Sales, Excise, and Use Tax Act and any applicable local sales and use tax, and the retailer is subject to assessment for taxes, penalties, and interest as provided by this section and the Limited Sales, Excise, and Use Tax Act and under any applicable law providing for a local sales and use tax.

(c) In every city or town in which a local sales and use tax has been adopted under this section, there is imposed by this section an excise tax on the storage, use, or other consumption within the city or town of taxable items purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the sales and use tax for storage, use, or other consumption in the city or town at the same rate as the sales tax levied under this section on the sales price of the taxable item or, in the case of leases or rentals, on the lease or rental price. Except as provided by Subsection (f) of this section, the use tax imposed by this section is not owed to and may not be collected by, for, or on behalf of a department if no excise tax on the storage, use, or other consumption of an item of tangible personal property is owed to or collected by the state under the Limited Sales, Excise, and Use Tax Act, or if the tangible personal property is first stored, used, or consumed within a city or town that does not have a department for which the sales and use tax authorized by this section has been adopted.

(d) In each city or town in which the tax authorized by this section has been imposed, the excise tax imposed under the Limited Sales, Excise, and Use Tax Act, any applicable excise tax under the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes) on the storage, use, or other consumption of taxable items, and the excise tax imposed by this section shall be added together to form a combined rate of excise tax equal to the sum of the applicable taxes. The tax imposed by Subsection (c) of this section shall be collected by the comptroller on behalf of and for the benefit of the department. The formula prescribed by Subsection (b) of this section is applicable to the collection of the excise tax imposed under Subsection (c) of this section.

(e) The Limited Sales, Excise, and Use Tax Act is applicable to the collection of the tax imposed by Subsection (c) of this section, except that in Subchapter D, Chapter 151, Tax Code, the name of the department for which the sales and use tax authorized by this section has been adopted shall be substituted for that of the state where the words "this state" are used to designate the taxing authority or to delimit the tax imposed.

(f) If a sale of tangible personal property is consummated within the state but not within a city or town having a department for which the taxes imposed by this section have been adopted or within a city that has adopted the tax authorized by Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Section 16, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), and the tangible personal property is shipped directly into or brought by the purchaser or lessee directly into a city or town having a department for which the taxes imposed by this section have been adopted, the tangible personal property is subject to the use tax imposed under Subsection (c) of this section. The use is considered consummated at the location where the item is first stored, used, or otherwise consumed after the intrastate transit has ceased.

(g)(1) If the tangible personal property is shipped from outside this state to a customer within this state, the tangible personal property is subject to the use tax imposed by Subsection (c) of this section and not the sales tax imposed under

Subsection (a) of this section. The use is consummated at the first point in this state where the property is stored, used, or otherwise consumed after interstate transit has ceased. Tangible personal property delivered to a point in this state is presumed to be for storage, use, or other consumption at that point until the contrary is established.

(2) There are exempted from the sales taxes imposed by this section receipts from any sale of tangible personal property which, pursuant to the contract of sale, is shipped to a point outside the city or town by the retailer by means of:

(A) facilities operated by the retailer;

(B) delivery by the retailer to a carrier for shipment to a consignee at such point; or

(C) delivery by the retailer to a customs broker or forwarding agent for shipment outside the city or town.

(3) If the tangible personal property exempted under Subdivision (2) of this section or under Paragraph (c)(6) of Subsection (B), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or Paragraph (F) of Section 16(f)(2) of Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is shipped or delivered directly to a purchaser in another city, town, or authority that has adopted the taxes imposed under any of these laws, the tangible personal property is subject to the use tax imposed by Subsection (a) of this section.

(h) On and after the effective date of any tax imposed under this section, the comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the comptroller shall collect, in addition to the taxes imposed by the Limited Sales, Excise, and Use Tax Act, an additional tax under the authority of this section specified by the department, but not to exceed one percent on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within the city or town, which items are subject to the Limited Sales, Excise, and Use Tax Act. The tax imposed under this section and the tax imposed under the Limited Sales, Excise, and Use Tax Act and any applicable local sales and use tax shall be collected together and reported on such forms and under such administrative rules as may be prescribed by the comptroller.

(i) The comptroller shall make to a department substantially the same reports as to taxes within the city or town collected for the department as are made to cities under Subsections (b), (c), and (d) of Section 5 of the Local Sales and Use Tax Act.

(j) The following provisions govern the collection by the comptroller of the tax imposed under this section:

(1) all applicable provisions contained in Title 2, Tax Code;

(2) Section 6, Local Sales and Use Tax Act; and

(3) the penalties provided in Title 2, Tax Code, for violations of that title.

(k) The sales and use tax collected by the comptroller under this section shall be deposited, held, accounted for, and transmitted for the department as if it were an authority as provided by Subdivision (4), Subsection (B)(e), Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes).

(l) Each department's share of all sales and use taxes collected under this section by the comptroller shall be transmitted periodically and as promptly as feasible to the city treasurer by the comptroller. Transmittals required under this section shall be made at least twice in each state fiscal year. Before transmitting funds, the comptroller shall deduct two percent of the sum collected from each city or town during the period as a charge by the state for its services specified in this section, and the amounts so deducted shall be deposited by the comptroller in the state treasury to the credit of the general revenue fund. The comptroller may retain

in the suspense account of any department a portion of the department's share of the taxes collected under this section. The balance so retained in the suspense account may not exceed five percent of the amount remitted to the department. The comptroller is authorized to make refunds from the suspense account of any department for overpayments made to the department's accounts and to redeem dishonored checks and drafts deposited to the credit of the suspense account of the department.

(m) The comptroller may adopt rules not inconsistent with this article to implement the enforcement, administration, and collection of the taxes authorized by this section.

(n) In any city or town in which the sales and use tax authorized by this section has been imposed, if any person is delinquent in the payment of the amount required to be paid under this section or if a determination has been made against him for taxes and a penalty under this section, the limitation for bringing suit for the collection of the delinquent tax and penalty is the same as that provided by the Limited Sales, Excise, and Use Tax Act. If any person is delinquent in payment of taxes under this section, the comptroller shall notify the department to which delinquent taxes are due by United States certified mail and shall send a copy of the notice to the attorney general. The department, acting through the city attorney, may join in any suit brought by the attorney general as a party plaintiff to seek a judgment for the delinquent taxes and penalty due the department. The notice sent by the comptroller to the department showing the delinquency of a taxpayer constitutes a certification of the amount owed and is prima facie evidence of the determination of the tax and of the delinquency of the amounts of sales and use taxes set forth in the notice.

(o) If property is seized by the comptroller under any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the Limited Sales, Excise, and Use Tax Act and if the taxpayer is also delinquent in payment of any tax imposed under this section, the comptroller shall sell sufficient property to pay the delinquent taxes and penalty due any department under this section in addition to that required to pay any amount due the state under the Limited Sales, Excise, and Use Tax Act and due any city under the Local Sales and Use Tax Act. The proceeds from the sale shall first be applied to all sums due the state, then all sums due any city under the Local Sales and Use Tax Act, and the remainder, if any, shall be applied to all sums due the department.

(p) A city or town having a department for which the tax authorized by this section has been adopted may bring suit for the collection of sales, excise, or use taxes imposed under this section that have been certified as provided by Subsection (n) of this section and are owed to the department under this section if, at least 60 days before the day of filing of the suit, written notice by certified mail of the tax delinquency and of the intention to file suit is given to the taxpayer, the comptroller, and the attorney general, and if neither the comptroller nor the attorney general disapproves the suit by written notice to the department.

(q) The comptroller or attorney general may disapprove the institution of tax suit under this section by a city or town if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the department seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed in full;

(3) the state will bring suit against the taxpayer for the collection of all sales, excise, and use taxes due under the Limited Sales, Excise, and Use Tax Act and this section; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas Constitution or United States Constitution in which the state has an overriding interest.

(r) A notice of disapproval to a city or town must give the reason for the determination of the comptroller or attorney general. A disapproval is final and not subject to review. A city or town, after the first anniversary of the date of the disapproval, may proceed again as provided in Subsection (p) of this section even though the liability of the taxpayer includes taxes for which the city or town has previously given notice and the comptroller or attorney general has previously disapproved the suit.

(s) In any suit under Subsection (n) of this section for the collection of the tax for a department, a judgment for or against the taxpayer does not affect any claim against the taxpayer by the state, or a claim arising under the Local Sales and Use Tax Act by a city, unless the state is a party to the action.

(t) A copy of the final judgment in favor of a city or town acting under this section in a case in which the state is not a party shall be abstracted by the city or town and a copy of the judgment together with a copy of the abstract shall be sent to the comptroller. The city or town shall collect taxes awarded to the city or town for the department under the judgment as provided by Subsection (e), Section 151.608, Tax Code, and is responsible for the renewal of the judgment before the expiration of the 10-year period. If a collection is made by a city or town on a judgment regarding a claim arising under this section, the department shall send notice of the amount collected by certified mail to the comptroller. The comptroller may prescribe a form for the notice to be used by departments.

(u) The board of a department by order may decrease the local sales and use tax rate or may call an election to increase or decrease the local sales and use tax rate.

(v) At the election, the ballots shall be prepared to permit voting for or against the proposition: "The increase (decrease) of the local sales and use tax rate of (name of department) to (percentage)." The increase or decrease in the tax rate is effective if it is approved by a majority of the votes cast. 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 and the comptroller and filed in the deed records of the county in the same manner as provided for a tax election by Section 5 of this article.

(w) An increase or decrease in the rate of a local sales and use tax already levied takes effect on the first day of the next calendar quarter after actual notification to the comptroller, except that if the comptroller notifies the presiding officer of the board in writing before the 11th day after the day of receipt of the notification that he 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.

(x) The board shall deposit taxes remitted to the department under this section as provided by Subsection (c) of Section 4 of this article in an account separate from an account for funds as provided by Subsection (e) of Section 4 of this article. Taxes collected under this section may be used only for mass transit purposes.

Sec. 9. TORT CLAIMS. A department is a separate unit of government for purposes of the Texas Tort Claims Act (Article 6252-19, Vernon's Texas Civil Statutes), and operations of a department are considered essential governmental functions and not proprietary functions for all purposes, including the purposes of that Act.

Sec. 10. DISSOLUTION OF DEPARTMENT. (a) The board of a department may call an election on the question of dissolving the department.

Except as provided by this section, notice and conduct of an election under this section must comply with state election laws and, as appropriate, with Section 5 of this article. The board shall send copies of the notice of election to the State Department of Highways and Public Transportation and to the comptroller.

(b) At the election, the ballots shall be prepared to provide for voting for or against the proposition: "Dissolution of (name of department)." The board shall dissolve the department if the dissolution is approved by a majority of the votes cast. The board shall send a certified copy of the order canvassing the election results to the State Department of Highways and Public Transportation and the comptroller and file a copy in the deed records of the county.

(c) The cessation of a local sales and use tax levied under this article takes effect on the first day of the next calendar quarter after actual notification to the comptroller, except that if the comptroller notifies the presiding officer of the board before the 11th day after the day of receipt of the notification that he requires more time to implement the results of the election, the comptroller may delay implementation for one whole calendar quarter. Thereafter, the cessation of tax takes effect on the first day of the next calendar quarter following the elapsed quarter.

Sec. 11. TAX EXEMPTION. The property, revenues, and other assets of a department and the interest on bonds and notes issued by a department are exempt from all taxes levied by the state or by any taxing authority of the state.

SECTION 2. Section 26.04(c), Tax Code, is amended to read as follows:

(c) An officer or employee designated by the governing body shall subtract from the total amount of property taxes imposed by the unit in the preceding year:

(1) the amount of taxes imposed in the preceding year to pay principal of and interest on debt of the unit and to pay lawfully incurred contractual obligations providing security for the payment of principal of and interest on bonds or other evidences of indebtedness issued on behalf of the unit by another political subdivision;

(2) the amount of taxes imposed in the preceding year on property in territory that has ceased to be a part of the unit;

(3) the amount of taxes imposed in the preceding year on taxable value that is exempt in the current year;

(4) the amount of taxes imposed in the preceding year on taxable value that is not taxable in the current year because property appraised at market value in the preceding year is required by law to be appraised at less than market value in the current year; [~~and~~]

(5) the amount of taxes imposed in the preceding year pursuant to Subsection (d) of this section to recoup taxes lost in the year before as a result of an error or errors;

(6) [~~(5)~~] the amount of taxes imposed in the preceding year dedicated to the use of a junior college district under Section 20.48(e), [~~Texas~~] Education Code; and

(7) in the first full year following the adoption of a local sales and use tax as provided by Section 8(a), Article 1118z, Revised Statutes, the amount of property taxes, not to exceed the estimated revenue from the imposition of a mass transit local sales and use tax, imposed in the preceding year that was used to pay for expenses related to mass transit services.

Article 4

SECTION 1. There is hereby appropriated to the comptroller of public accounts the sum of $1,200,000 to be used for the implementation and administration of this Act.

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.

Floor Amendment No. 3 - Harrison, Stiles

Amend **C.S.S.B. 784**, second reading engrossment (page and line references to second reading floor substitute) as follows:

(1) On page 2 add the following at the end of line 6:

"In this Act, 'contiguous city' means a city that is a contiguous city under Section 24(a), Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).".

(2) On page 2, lines 9 and 14, add after "(1/2%)" the following ", or one percent (1%) in a contiguous city,".

(3) On page 3, line 16 strike "one-half of one percent (1/2%)" and substitute "(insert appropriate rate)."

(4) On page 6, line 3, insert ", or two percent (2%) in a contiguous city," after "(1-1/2%)".

(5) On page 6, lines 6 and 20, insert after "percent" the following: ", or 6.125 percent in a contiguous city,". On page 70, line 7, strike "1,200,000" and insert "3,356,990".

(6) On page 6, strike lines 10-18 and substitute the following: "the sale price upon a schedule prepared by the comptroller showing the sales price and the amount of tax.".

(7) On page 9, line 17, and on page 10, line 21, strike "one and one-half percent (1-1/2%)" and substitute "the appropriate rate".

(8) On page 11, lines 14 and 20 add "appropriate" before "rate".

(9) On page 11, lines 14 and 20-21, strike "of one and one-half percent (1-1/2%)".

(10) At each of the following places, add ", or one percent in a county in which there is no incorporated city or town," after "percent":

Page 21, line 30
Page 22, line 4
Page 27, line 10
Page 28, line 19
Page 31, lines 13 and 17.

(11) On page 23, lines 11-12, strike "one-half percent" and substitute "(insert appropriate rate)".

The amendments were read.

Senator Brooks moved to concur in the House amendments.

Senator Henderson 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 motion prevailed.

RECORD OF VOTES

Senators Sharp, Sims and Uribe asked to be recorded as voting "Nay" on the motion not to concur in the House amendments.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **S.B. 784** 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 Brooks, Chairman; Henderson, Traeger, Uribe and Whitmire.

HOUSE BILL 741 ON SECOND READING

On motion of Senator Krier 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. 741, Relating to requiring public hearings or voter approval for leasing certain improved school district property.

The bill was read second time.

Senator Krier offered the following amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 741** on page 1, line 19, after the period, by inserting "This subsection does not apply if the lessee qualifies as an exempt organization under Section 501(c)(3), Internal Revenue Code, 1985, and the lease is for a term of less than three years.".

The amendment was read and was adopted.

Senator Krier offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 741** as follows:

(1) On page 1, line 21, add after "not to be leased": "to another party"

(2) On page 1, line 37, strike "unless" and substitute: ", if not later than the 10th day after the date of the second hearing the board is presented with a petition signed by not less than 10 percent of the registered voters of the district requesting an election on the lease,".

(3) On page 2, line 4, strike "The" and substitute: "If the requirements of this section are satisfied, the".

(4) On page 2, line 5, strike "that has been authorized by the voters of the district."

(5) On page 2, between lines 9 and 10, insert the following:

"(i) If a lease of improved property of an independent school district on which are located improvements having a market value of $100,000 or more is for a term of less than six years, but the lease allows for an extension that would result in a total lease term of 10 years or more, the lease is subject to Subsection (b) of this section.

(j) This section does not apply in the case of a lease under which the school district is the lessee of the property.

(k) This section does not apply to a lease of real property to another party by a school district in accordance with Article 2368a.Z, Vernon's Texas Civil Statutes, as amended, in which the school district holds title to the real property and the other party holds title to improvements on the real property. the real property.

(l) Notwithstanding any contrary provision of this Act, or any other provision of law, a school district shall have the authority to acquire, use or purchase any real or personal property by lease, installment purchase or lease with option to purchase, which may be deemed appropriate by the governing body of the school district."

The amendment was read and was adopted.

On motion of Senator Krier 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 741 ON THIRD READING

Senator Krier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 741** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire.

Nays: Parker, Washington.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Parker.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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:

The House refused to concur in Senate amendments to **H.B. 498** and has requested the appointment of a Conference Committee to consider the differences between the two houses. House Conferees: Shaw, Chairman; Blanton, McKinney, Schlueter and Morales.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE HOUSE BILL 1825 ON SECOND READING

On motion of Senator Montford 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. 1825, Relating to the application of the open records law

information relating to litigation to which a governmental entity is a party and to records maintained and information collected by a prosecutor's office.

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

COMMITTEE SUBSTITUTE HOUSE BILL 1825 ON THIRD READING

Senator Montford 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. 1825** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

HOUSE BILL 256 ON SECOND READING

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

H.B. 256, Relating to statements of facts in appeals of suits affecting the parent-child relationship.

There was objection.

Senator Green then moved to suspend the regular order of business and take up **H.B. 256** for consideration at this time.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read second time.

Senator Green offered the following amendment to the bill:

Amend **H.B. 256**, Section 1 by adding the following to read:

"This Section shall apply to any county with a population in excess of two million or more according to the most recent federal census."

The amendment was read and was adopted.

On motion of Senator Green 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 256 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 256** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

CONFERENCE COMMITTEE REPORT
SENATE BILL 290

Senator Caperton submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 290** have met and had the same under onsideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

CAPERTON	C. EVANS
FARABEE	HARRIS
McFARLAND	T. SMITH
WASHINGTON	JACKSON
EDWARDS	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to a reapportionment of the judicial districts of the state by the Judicial Districts Board or the Legislative Redistricting Board, the transfer of cases upon reapportionment, the jurisdiction and terms of courts, and the duties and powers of certain county and district officers.

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

SECTION 1. DECLARATION OF POLICY. It is the policy of the state that the administration of justice shall be prompt and efficient and that, for this purpose, the judicial districts of the state shall be reapportioned as provided by this Act so that the district courts of various judicial districts shall have judicial burdens that are as nearly equal as possible.

SECTION 2. DEFINITIONS. In this Act:

(1) "Board" means the Judicial Districts Board as established by Article V, Section 7a, of the Texas Constitution.

(2) "Reapportionment" means the redistribution of the judicial districts of the state by designating the county or counties to be included in each judicial district and may affect any or all of the judicial districts and counties of the state under either the original reapportionment made under this Act or a reapportionment at a time subsequent to an original reapportionment.

(3) "Reapportionment order" means an order adopted by the board that reapportions the judicial districts of the state.

SECTION 3. OFFICIAL DUTY. Service on the board is an official duty of each of the officers named in Article V, Section 7a, of the Texas Constitution.

SECTION 4. DUTIES. The board shall reapportion the judicial districts authorized by Article V, Section 7, of the Texas Constitution by statewide reapportionment of the districts and, as the necessity for additional reapportionment appears, by redesignating, in one or more reapportionment orders, the county or counties that comprise the specific judicial districts affected by those reapportionment orders. The board shall investigate from time to time the necessity of and appropriate locations for new judicial districts and shall advise the legislature of its findings. The board shall inform itself on all matters bearing on its duties.

SECTION 5. RULES AND CONDITIONS FOR REAPPORTIONMENT. (a) The reapportionment of the judicial districts of the state by the board is subject to the rules and conditions provided by Subsections (b) through (d) of this section.

(b) Reapportionment of the judicial districts shall be made on a determination of fact by the board that the reapportionment will best promote the efficiency and promptness of the administration of justice in the state by equalizing as nearly as possible the judicial burdens of the district courts of the various judicial districts. In determining the reapportionment that best promotes the efficiency and promptness of the administration of justice, the board shall consider:

(1) the numbers and types of cases filed in the district courts of the counties to be affected by the reapportionment;

(2) the numbers and types of cases disposed of by dismissal or judgment in the district courts of those counties;

(3) the numbers and types of cases pending in the district courts of those counties;

(4) the number of district courts in those counties;

(5) the population of the counties;

(6) the area to be covered by a judicial district; and

(7) the actual growth or decline of population and district court case load in the counties to be affected.

(c) Each judicial district affected by a reapportionment must contain one or more complete counties except as provided by this section. More than one judicial district may contain the same county or counties. If more than one county is contained in a judicial district, the territory of the judicial district must be contiguous.

(d) Subject to the other rules and conditions in this section, a judicial district in a reapportionment under this Act may:

(1) be enlarged in territory by including an additional county or counties in the district, but no county having a population as large or larger than the population of the judicial district being reapportioned shall be added to the judicial district;

(2) be decreased in territory by removing a county or counties from the district;

(3) have both a county or counties added to the district and a county or counties removed from it; or

(4) be removed to another location in the state so that the district contains an entirely different county or counties.

(e) The legislature, the Judicial Districts Board, or the Legislative Redistricting Board may not redistrict the judicial districts to provide for any judicial district smaller in size than an entire county except as provided by this section. Judicial districts smaller in size than the entire county may be created subsequent to a general election where a majority of the persons voting on the proposition adopt the proposition "to allow the division of _____ County into judicial districts composed of parts of _____ County." No redistricting plan may be proposed or adopted by the legislature, the Judicial Districts Board, or the Legislative Redistricting Board in anticipation of a future action by the voters of any county.

SECTION 6. PROCEDURE. (a) The board shall meet for the first time at a time and place to be designated by the chairman and shall meet thereafter in accordance with its own rules. The board shall meet at least once in each interim between regular sessions of the legislature and shall exercise its reapportionment powers only in the interims between regular legislative sessions. Meetings of the board shall be subject to the provisions of the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), except as otherwise provided by this Act. A

reapportionment may not be ordered in the interim immediately following a regular session of the legislature in which a valid and subsisting statewide reapportionment of judicial districts is enacted by the legislature. Unless the legislature enacts a statewide reapportionment of the judicial districts following each federal decennial census, the board shall convene not later than the first Monday of June of the third year following the year in which the federal decennial census is taken to make a statewide reapportionment of the districts. The board shall complete its work on the reapportionment and file its order with the secretary of state not later than August 31 of the same year. If the Judicial Districts Board fails to make a statewide apportionment by that date, the Legislative Redistricting Board established by Article III, Section 28, of the Texas Constitution shall make a statewide reapportionment of the judicial districts not later than the 150th day after the final day for the Judicial Districts Board to make the reapportionment, which apportionment shall become effective under the provisions of Sections 8 and 9 of this Act.

(b) The board shall adopt its own rules of procedure and has the power to make investigations, hold hearings, compel by subpoena the attendance and testimony of witnesses and the production of records, administer oaths, and do all things necessary in its judgment to carry out its duties.

(c) On the request of the chairman, any peace officer shall serve a subpoena issued by the board. The officer shall serve the subpoena in the same manner as a subpoena issued by a district court is served. If the person to whom a subpoena is directed fails to comply, the board may bring suit in the district court to enforce the subpoena. If the court determines that good cause exists for the issuance of the subpoena, the court shall order compliance. The court may modify the requirements of a subpoena that the court determines are unreasonable. Failure to comply with the order of the district court is punishable as contempt.

(d) The board may provide for the compensation of subpoenaed witnesses. The amount of compensation may not exceed the amount paid to a witness subpoenaed by a district court in a civil proceeding.

SECTION 7. REAPPORTIONMENT ORDERS. Any judicial reapportionment order adopted by the board must be approved by a record vote of the majority of the membership of both the senate and house of representatives before such order can become effective and binding.

SECTION 8. EFFECT OF REAPPORTIONMENT. (a) After the effective date of a reapportionment order, the judicial districts affected by the order contain only the counties designated for the judicial districts in the reapportionment order, and the district courts shall have and exercise jurisdiction coextensive with the newly defined limits of the judicial districts in all actions, proceedings, matters, and causes of which district courts have jurisdiction under the constitution and laws of the state.

(b) If a county in which any part of the jurisdiction vested by general law in the county court has been transferred or made concurrent in a district court is removed by reapportionment under this Act from the judicial districts of all district courts having the county court jurisdiction, the board shall specify whether, after the effective date of the reapportionment order, the transferred county court jurisdiction is vested in the district court of the judicial districts in which the county is included under the reapportionment order or whether the transferred county court jurisdiction is revested in the county court.

(c) Where the office of district attorney is authorized by law in or for a judicial district, no reapportionment hereunder shall change the county or counties included in the district for purposes of election, functions, duties, and authority of the district attorney, his assistants, and their successors in office.

SECTION 9. PENDING CASES AND PROCEEDINGS. (a) If a county is removed from a judicial district and placed or left in another judicial district by

reapportionment under this Act, the district clerk of that county shall, on the effective date of the reapportionment order, transfer and properly docket to the court of a judicial district in which the county is located the cases and proceedings in that county on the docket of the court of the judicial district from which the county is removed, with all records, documents, and instruments on file in connection with the cases and proceedings. If a county is removed from a judicial district and placed or left in more than one judicial district, the clerk shall transfer the cases and proceedings to the district court of the judicial district for that county having the lowest numerical designation. lowest numerical designation.

(b) If cases or other proceedings are transferred from a district court to another district court in accordance with this Act, all writs, processes, bonds, bail bonds, recognizances, complaints, informations and indictments, and any other matters returnable to the court from which the cases or proceedings were transferred are returnable to the court to which the cases or proceedings are transferred and are as valid as if they had been made returnable originally to that court.

SECTION 10. EQUALIZATION OF DOCKETS. The judges of the district courts may equalize their dockets in all counties in which there are two or more district courts. The judge of a district court, on motion of a party, on agreement of the parties, or on the judge's own motion, may transfer a cause or proceeding on the judge's docket to the docket of one of the other district courts.

SECTION 11. CONCURRENT JURISDICTION. If a county is located in two or more judicial districts by reapportionment under this Act, all the district courts in the county have concurrent civil and criminal jurisdiction within the territorial limits of the county.

SECTION 12. TERMS OF COURTS. The terms of the district court of a judicial district affected by reapportionment under this Act shall be the terms provided by the board in the reapportionment order affecting the judicial district. In the absence of a provision by the board, the terms of the district court, until otherwise prescribed by law, begin on the first Mondays in January and July of each year and continue until the time for convening the next regular term of the court. Each district court may hold as many sessions of court in each county each year as the judge considers expedient.

SECTION 13. OFFICERS OF COURT. In a county placed in a different or additional judicial district by reapportionment under this Act, the district clerk, sheriff, constables, county attorney, and district attorney or criminal district attorney of the county, and their assistants and successors in office, shall be the respective officers of all district courts of the county, including the courts of the different or additional judicial districts. Each officer shall perform all the duties and functions of his office relative to all the district courts of the county.

SECTION 14. QUARTERS FOR COURTS. The commissioners court of a county that is newly included in a judicial district by reapportionment under this Act shall provide suitable quarters, facilities, and personnel for the district court of the judicial district.

SECTION 15. CUMULATIVE LAW. This Act is cumulative of all other laws governing district courts and judicial districts.

SECTION 16. EFFECTIVE DATE. This Act becomes effective only if a constitutional amendment providing for the creation of a Judicial Districts Board and providing for reapportioning the judicial districts of the state is proposed by the 69th Legislature and adopted by the voters. This Act is effective on the date the amendment becomes a part of the Texas Constitution.

SECTION 17. 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 was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE ON HOUSE BILL 2091

Senator Edwards called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2091** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2091** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Edwards, Chairman; Brooks, Lyon, Parmer and Washington.

CONFERENCE COMMITTEE REPORT
SENATE JOINT RESOLUTION 14

Senator Caperton submitted the following Conference Committee Report:

Austin, Texas
May 25, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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.J.R. 14** 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.

CAPERTON	EVANS
FARABEE	C. HARRIS
McFARLAND	T. SMITH
WASHINGTON	JACKSON
EDWARDS	
On the part of the Senate	On the part of the House

A JOINT RESOLUTION

proposing a constitutional amendment relating to court jurisdiction and administration and to create the Judicial Districts Board and to provide for the reapportionment of judicial districts by that board or by the Legislative Redistricting Board.

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

SECTION 1. That Article V of the Texas Constitution be amended by adding Section 7a to read as follows:

"Section 7a. (a) The Judicial Districts Board is created to reapportion the judicial districts authorized by Article V, Section 7, of this constitution.

"(b) The membership of the board consists of the Chief Justice of the Texas Supreme Court who serves as chairman, the presiding judge of the Texas Court of Criminal Appeals, the presiding judge of each of the administrative judicial districts of the state, the president of the Texas Judicial Council, and one person who is licensed to practice law in this state appointed by the governor with the advice and

consent of the senate for a term of four years. In the event of a vacancy in the appointed membership, the vacancy is filled for the unexpired term in the same manner as the original appointment.

"(c) A majority of the total membership of the board constitutes a quorum for the transaction of business. The adoption of a reapportionment order requires a majority vote of the total membership of the board.

"(d) The reapportionment powers of the board shall be exercised in the interims between regular sessions of the legislature, except that a reapportionment may not be ordered by the board during an interim immediately following a regular session of the legislature in which a valid and subsisting statewide apportionment of judicial districts is enacted by the legislature. The board has other powers and duties as provided by the legislature and shall exercise its powers under the policies, rules, standards, and conditions, not inconsistent with this section, that the legislature provides.

"(e) Unless the legislature enacts a statewide reapportionment of the judicial districts following each federal decennial census, the board shall convene not later than the first Monday of June of the third year following the year in which the federal decennial census is taken to make a statewide reapportionment of the districts. The board shall complete its work on the reapportionment and file its order with the secretary of state not later than August 31 of the same year. If the Judicial Districts Board fails to make a statewide apportionment by that date, the Legislative Redistricting Board established by Article III, Section 28, of this constitution shall make a statewide reapportionment of the judicial districts not later than the 150th day after the final day for the Judicial Districts Board to make the reapportionment.

"(f) In addition to the statewide reapportionment, the board may reapportion the judicial districts of the state as the necessity for reapportionment appears by redesignating, in one or more reapportionment orders, the county or counties that comprise the specific judicial districts affected by those reapportionment orders. In modifying any judicial district, no county having a population as large or larger than the population of the judicial district being reapportioned shall be added to the judicial district.

"(g) Except as provided by Subsection (i) of this section, this section does not limit the power of the legislature to reapportion the judicial districts of the state, to increase the number of judicial districts, or to provide for consequent matters on reapportionment. The legislature may provide for the effect of a reapportionment made by the board on pending cases or the transfer of pending cases, for jurisdiction of a county court where county court jurisdiction has been vested by law in a district court affected by the reapportionment, for terms of the courts upon existing officers and their duties, and for all other matters affected by the reapportionment. The legislature may delegate any of these powers to the board. The legislature shall provide for the necessary expenses of the board.

"(h) Any judicial reapportionment order adopted by the board must be approved by a record vote of the majority of the membership of both the senate and house of representatives before such order can become effective and binding.

"(i) The legislature, the Judicial Districts Board, or the Legislative Redistricting Board may not redistrict the judicial districts to provide for any judicial district smaller in size than an entire county except as provided by this section. Judicial districts smaller in size than the entire county may be created subsequent to a general election where a majority of the persons voting on the proposition adopt the proposition 'to allow the division of _____ County into judicial districts composed of parts of _____ County.' No redistricting plan may be proposed or adopted by the legislature, the Judicial Districts Board, or the Legislative Redistricting Board in anticipation of a future action by the voters of any county."

SECTION 2. That Article V, Section 6, of the Texas Constitution be amended to read as follows:

"Section 6. The state shall be divided into courts of appeals districts, with each district having a Chief Justice, two or more other Justices, and such other officials as may be provided by law. The Justices shall have the qualifications prescribed for Justices of the Supreme Court. [~~The Legislature shall divide the State into such Supreme judicial districts as the population and business may require, and shall establish a Court of Appeals in each of said districts, which shall consist of a Chief Justice and at least two Associate Justices, who shall have the qualifications as herein prescribed for Justices of the Supreme Court.~~] The Court of Appeals may sit in sections as authorized by law. The concurrence of a majority of the judges sitting in a section is necessary to decide a case. Said Court of Appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all cases of which the District Courts or County Courts have original or appellate jurisdiction, under such restrictions and regulations as may be prescribed by law. Provided, that the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error. Said courts shall have such other jurisdiction, original and appellate, as may be prescribed by law.

"Each of said Courts of Appeals shall hold its sessions at a place in its district to be designated by the Legislature, and at such time as may be prescribed by law. Said Justices shall be elected by the qualified voters of their respective districts at a general election, for a term of six years and shall receive for their services the sum provided by law. Each Court of Appeals shall appoint a clerk in the same manner as the clerk of the Supreme Court which clerk shall receive such compensation as may be fixed by law.

"[~~On the effective date of this amendment, the Justices of the present Courts of Civil Appeals become the Justices of the Courts of Appeals for the term of office to which elected or appointed as Justices of the Courts of Civil Appeals, and the Supreme Judicial Districts become the Supreme Judicial Districts for the Courts of Appeals.~~] All constitutional and statutory references to the Courts of Civil Appeals shall be construed to mean the Courts of Appeals."

SECTION 3. That Article V, Section 7, of the Texas Constitution be amended to read as follows:

"Section 7. The State shall be divided into [~~as many~~] judicial districts, with each district having one or more Judges as may be provided by law or by this Constitution [~~as may now or hereafter be provided by law, which may be increased or diminished by law~~]. Each district judge [~~For each district there~~] shall be elected by the qualified voters [~~thereof,~~] at a General Election and [~~, a Judge, who~~] shall be a citizen of the United States and of this State, who is [~~shall be~~] licensed to practice law in this State and has [~~shall have~~] been a practicing lawyer or a Judge of a Court in this State, or both combined, for four (4) years next preceding his election, who has [~~shall have~~] resided in the district in which he was elected for two (2) years next preceding his election, and who shall reside in his district during his term of office and [~~, who shall~~] hold his office for the period of four (4) years, and who shall receive for his services an annual salary to be fixed by the Legislature. The Court shall conduct its proceedings at the county seat of the county in which the case is pending, except as otherwise provided by law. He shall hold the regular terms of his Court at the County Seat of each County in his district [~~at least twice in each year~~] in such manner as may be prescribed by law. The Legislature shall have power by General or Special Laws to make such provisions concerning the terms or sessions of each Court as it may deem necessary.

"The Legislature shall also provide for the holding of District Court when the Judge thereof is absent, or is from any cause disabled or disqualified from presiding.

"[~~The District Judges who may be in office when this Amendment takes effect shall hold their offices until their respective terms shall expire under their present election or appointment.~~]"

SECTION 4. That Article V, Section 8, of the Texas Constitution be amended to read as follows:

"Section 8. District Court jurisdiction consists of exclusive, appellate, and original jurisdiction of all actions, proceedings, and remedies, except in cases where exclusive, appellate, or original jurisdiction may be conferred by this Constitution or other law on some other court, tribunal, or administrative body. District court judges shall have the power to issue writs necessary to enforce their jurisdiction. [~~The District Court shall have original jurisdiction in all criminal cases of the grade of felony; in all suits in behalf of the State to recover penalties, forfeitures and escheats; of all cases of divorce; of all misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for trial of title to land and for the enforcement of liens thereon; of all suits for the trial of the right of property levied upon by virtue of any writ of execution, sequestration or attachment when the property levied on shall be equal to or exceed in value five hundred dollars; of all suits, complaints or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to five hundred dollars exclusive of interest; of contested elections, and said court and the judges thereof, shall have power to issue writs of habeas corpus, mandamus, injunction and certiorari, and all writs necessary to enforce their jurisdiction.~~

"[~~The District Court shall have appellate jurisdiction and general control in probate matters, over the County Court established in each county, for appointing guardians, granting letters testamentary and of administration, probating wills, for settling the accounts of executors, administrators and guardians, and for the transaction of all business appertaining to estates; and original jurisdiction and general control over executors, administrators, guardians and minors under such regulations as may be prescribed by law.~~] The District Court shall have appellate jurisdiction and general supervisory control over the County Commissioners Court, with such exceptions and under such regulations as may be prescribed by law[~~; and shall have general original jurisdiction over all causes of action whatever for which a remedy or jurisdiction is not provided by law or this Constitution, and such other jurisdiction, original and appellate, as may be provided by law~~].

"[~~The district court, concurrently with the county court, shall have the general jurisdiction of a probate court. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law. In any proceeding involving the general jurisdiction of a probate court, including such specified proceedings, the district court shall also have all other jurisdiction conferred upon the district court by law. The legislature, however, shall have the power, by local or general law, Section 16 of Article V of this Constitution notwithstanding, to increase, diminish or eliminate the jurisdiction of either the district court or the county court in probate matters, and in cases of any such change of jurisdiction, the legislature shall also conform the jurisdiction of the other courts to such change. The legislature shall have power to adopt rules governing the filing, distribution and transfer of all such cases and proceedings as between district courts, county courts, and other courts having jurisdiction thereof, and may provide that all appeals in such matters shall be to the courts of (civil) appeals.~~]"

SECTION 5. That Article V, Section 16, of the Texas Constitution be amended to read as follows:

"Section 16. The County Court has jurisdiction as provided by law. The County Judge is the presiding officer of the County Court and has judicial functions as provided by law. County court judges shall have the power to issue writs necessary to enforce their jurisdiction.

"County Courts in existence on the effective date of this amendment are continued unless otherwise provided by law. [~~The County Court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justices Court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed $200, and they shall have concurrent jurisdiction with the Justice Court in all civil cases when the matter in controversy shall exceed in value $200, and not exceed $500, exclusive of interest, unless otherwise provided by law, and concurrent jurisdiction with the District Court when the matter in controversy shall exceed $500, and not exceed $1,000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which Justices Courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed $20, exclusive of cost, under such regulations as may be prescribed by law. In all appeals from Justices Courts there shall be a trial de novo in the County Court, and appeals may be prosecuted from the final judgment rendered in such cases by the County Court, as well as all cases civil and criminal of which the County Court has exclusive or concurrent or original jurisdiction as may be prescribed by law and this Constitution.~~

"[~~The County Court shall have the general jurisdiction of a Probate Court; they shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons and to apprentice minors, as provided by law; and the County Court, or judge thereof, shall have power to issue writs of injunctions, mandamus and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the County Court, or any other Court or tribunal inferior to said Court. The County Court shall not have criminal jurisdiction in any county where there is a Criminal District Court, unless expressly conferred by law, and in such counties appeals from Justices Courts and other inferior courts and tribunals in criminal cases shall be to the Criminal District Court, under such regulations as may be prescribed by law; and in all such cases an appeal shall lie from such District Court as may be prescribed by law and this Constitution.~~] When the judge of the County Court is disqualified in any case pending in the County Court the parties interested may, by consent, appoint a proper person to try said case, or upon their failing to do so a competent person may be appointed to try the same in the county where it is pending in such manner as may be prescribed by law."

SECTION 6. That Article V, Section 17, of the Texas Constitution be amended to read as follows:

"Section 17. The County Court shall hold terms as [~~a term for civil business at least once in every two months, and shall dispose of probate business, either in term time or vacation as may be provided by law, and said court shall hold a term for criminal business once in every month as may be~~] provided by law. Prosecutions may be commenced in said court by information filed by the county attorney, or by affidavit, as may be provided by law. Grand juries empaneled [~~empanneled~~] in the District Courts shall enquire into misdemeanors, and all indictments therefor returned into the District Courts shall forthwith be certified to the County Courts or other inferior courts, having jurisdiction to try them for trial; and if such

indictment be quashed in the County, or other inferior court, the person charged, shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit. A jury in the County Court shall consist of six men; but no jury shall be empaneled [~~empanneled~~] to try a civil case unless demanded by one of the parties, who shall pay such jury fee therefor, in advance, as may be prescribed by law, unless he makes affidavit that he is unable to pay the same."

SECTION 7. That Article V, Section 19, of the Texas Constitution be amended to read as follows:

"Section 19. Justice of the peace courts shall have original jurisdiction in criminal matters of misdemeanor cases punishable by fine only, exclusive jurisdiction in civil matters where the amount in controversy is two hundred dollars or less, and such other jurisdiction as may be provided by law. Justices of the peace shall be ex officio notaries public [~~have jurisdiction in criminal matters of all cases where the penalty or fine to be imposed by law may not be more than for two hundred dollars, and exclusive jurisdiction in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, unless exclusive original jurisdiction is given to the District or County Courts, and concurrent jurisdiction with the County Courts when the matter in controversy exceeds two hundred dollars and does not exceed five hundred dollars, exclusive of interest, unless exclusive jurisdiction is given to the County Courts, and, as provided by law, when the matter in controversy exceeds five hundred dollars, concurrent jurisdiction with both the County Courts and the District Courts in an amount not to exceed one thousand dollars exclusive of interest, unless exclusive jurisdiction is given to the County Courts or the District Courts; and such other jurisdiction, criminal and civil, as may be provided by law, under such regulations as may be prescribed by law; and appeals to the County Courts shall be allowed in all cases decided in Justices' Courts where the judgment is for more than twenty dollars exclusive of costs, and in all criminal cases under such regulations as may be prescribed by law. And the justices of the peace shall be ex officio notaries public. And they shall hold their courts at such times and places as may be provided by law~~].

SECTION 8. That Article V of the Texas Constitution be amended by adding a new Section 31 to read as follows:

"Section 31. Court administration and rule-making authority

"Section 31. (a) The Supreme Court is responsible for the efficient administration of the judicial branch and shall promulgate rules of administration not inconsistent with the laws of the state as may be necessary for the efficient and uniform administration of justice in the various courts.

"(b) The Supreme Court shall promulgate rules of civil procedure for all courts not inconsistent with the laws of the state as may be necessary for the efficient and uniform administration of justice in the various courts.

"(c) The legislature may delegate to the Supreme Court or Court of Criminal Appeals the power to promulgate such other rules as may be prescribed by law or this Constitution, subject to such limitations and procedures as may be provided by law."

SECTION 9. That Article V of the Texas Constitution be amended by repealing Sections 14, 16a, 22, and 25.

SECTION 10. That the following temporary provision be added to the Texas Constitution:

"TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by **S.J.R No. 14**, 69th Legislature, Regular Session, 1985, and expires January 1, 1992.

"(b) Courts of Appeals Districts and Judges. The supreme judicial districts of the state become courts of appeals districts. Associate justices of the courts of appeals become justices of the courts of appeals.

"(c) County Courts and County Judges. Unless otherwise provided by law, all county courts in existence under the Constitution continue in effect with jurisdiction as provided by law. The judges of those courts remain as county court judges and as presiding officers of the county commissioners courts.

"(d) Municipal Courts, County Courts at Law, and Justice of the Peace Courts. Unless otherwise provided by law, order, charter, or ordinance, these courts and judges of them remain as they exist at the time of adoption of the amendments, including any new courts authorized by law but not taking effect until after the date of adoption of these amendments.

"(e) Judicial Districts and Judges. Unless otherwise provided by law, judicial districts in existence at the time of adoption of these amendments remain in effect, including any districts authorized by law but not taking effect until after the date of adoption of these amendments.

"(f) Laws and Rules Continued. Except to the extent inconsistent with the provisions of these amendments, all laws and rules of court in force on the effective date of these amendments continue in effect until otherwise provided by law.

"(g) Other Provisions. In the event a transfer or transition has not been provided for by these amendments or other law, the Supreme Court shall provide by rule for the orderly transfer or transition.

"(h) The initial term of the member of the Judicial Districts Board appointed by the governor expires on December 31, 1990."

SECTION 11. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 5, 1985. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment providing for the reapportionment of the judicial districts of the state by the Judicial Districts Board or by the Legislative Redistricting Board, and providing for the administration and jurisdiction of constitutional courts."

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

HOUSE BILL 1343 ON SECOND READING

On motion of Senator Lyon 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 engrossment:

H.B. 1343, Relating to protective clothing for fire protection personnel.

The bill was read second time.

(President in Chair)

Senator Brooks offered the following amendment to the bill:

Amend **H.B. 1343** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Chapter 668, Acts of the 61st Legislature, Regular Session, 1969 (Article 4413(35), Vernon's Texas Civil Statutes), is amended by adding Section 1b to read as follows:

Sec. 1b. DEFINITIONS. In this Act:

(1) "Fire department" means a department of a local government with paid employees organized for the purposes of fire prevention or fire suppression.

(2) "Fire protection personnel" means a full-paid, full-time, permanent employee of a fire department who is not an administrative employee such as a

secretary, stenographer, clerk, budget analyst, or similar support staff person and who is assigned duties in one or more of the following categories:

(A) fire suppression;

(B) fire inspection;

(C) fire and arson investigation;

(D) marine fire fighting;

(E) aircraft crash fire fighting and rescue;

(F) fire training;

(G) fire education;

(H) fire administration; and

(I) any other position necessarily or customarily related to fire prevention and suppression.

(3) "Local government" means an incorporated city, town, or village, a county, a special-purpose district or authority, or any other political subdivision of the state.

SECTION 2. Section 2, Chapter 668, Acts of the 61st Legislature, Regular Session, 1969 (Article 4413(35), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. The commission shall have the authority and power to:

(1) promulgate rules and regulations for the administration of this Act including the authority to require the submission of reports and information by any state or local government[~~, county, or municipal~~] agency within this State which employs fire protection personnel;

(2) establish minimum educational, training, physical, mental, and moral standards for admission to employment as fire protection personnel in permanent positions or in temporary or probationary status and for advanced or specialized fire protection personnel positions;

(3) certify persons as being qualified under the provisions of this Act to be fire protection personnel;

(4) certify persons as having qualified as fire protection personnel instructors under such conditions as the commission may prescribe;

(5) establish minimum curriculum requirements for preparatory, in-service and advance courses and programs for schools or academies operated by or for the State or any political subdivisions thereof for the specific purpose of training fire protection personnel or recruits for the position of fire protection personnel;

(6) consult and cooperate with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, and other institutions concerning the development of fire protection personnel training schools and programs of courses of instruction, including the preparation or implementation of continuing education or training programs for fire protection personnel;

(7) approve, or revoke the approval of, institutions and facilities for schools operated by or for the State or any political subdivision thereof for the specific purpose of training fire protection personnel or recruits for the position of fire protection personnel, and issue certificates of approval to such institutions and revoke such certificates of approval;

(8) operate schools and facilities thereof and conduct courses therein, both preparatory, in-service, basic, and advanced courses, for fire protection personnel and recruits for the position of fire protection personnel as the commission may determine;

(9) contract with other agencies, public or private, or persons, as the commission deems necessary for the rendition and affording of such services, facilities, studies, and reports as it may require to cooperate with local government [~~municipal, county~~], state, and federal agencies in training programs, and to otherwise perform its functions;

(10) make or encourage studies of any aspect of fire protection, including fire administration;

(11) conduct and stimulate research by public and private agencies which shall be designed to improve fire protection and fire administration;

(12) employ an executive director and such other personnel as may be necessary in the performance of its functions;

(13) visit and inspect all institutions and facilities conducting courses for the training of fire protection personnel and recruits for the position of fire protection personnel and make evaluations as may be necessary to determine if they are complying with the provisions of this Act and the commission's rules and regulations;

(14) adopt and amend rules and regulations, consistent with state law, for its internal management and control;

(15) accept any donations, contributions, grants, or gifts from private individuals or foundations or the federal government;

(16) report annually to the Governor and to the Legislature at each regular session on its activities, with its recommendations relating to any matter within its purview, and make such other reports as it deems desirable;

(17) meet at such times and places in the State of Texas as it deems proper, meetings to be called by the chairman upon his own motion, or upon the written request of five members; and

(18) consistent with the provisions of Section 8A of this Act, publish minimum standards for protective clothing and self-contained breathing apparatus for [~~full-time, paid~~] fire protection personnel.

SECTION 3. Section 6, Chapter 668, Acts of the 61st Legislature, Regular Session, 1969 (Article 4413(35), Vernon's Texas Civil Statutes), is amended by amending Subsections (b), (c), (e), (h), (i), (j), and (k), and by adding Subsections (l) and (m) to read as follows:

(b) No person [~~after September 1, 1972,~~] shall be appointed to a [~~municipal~~] fire department, except on a temporary or probationary basis, unless such person has satisfactorily completed a preparatory program of training in fire protection at a school approved or operated by the commission. Fire protection personnel who have received a temporary or probationary appointment as such on September 1, 1972, or thereafter, and who fail to satisfactorily complete a basic course in fire protection as prescribed by the commission, within a one-year period from the date of his original appointment, shall forfeit his position and shall be removed therefrom; and may not have his temporary or probationary employment extended beyond one year by renewal of appointment or otherwise; except that after the lapse of one year from the date of his forfeiture and removal, a [~~municipal~~] fire department [~~agency~~] may petition the commission for reinstatement of temporary or probationary employment of such individual, such reinstatement resting within the sole discretion of the commission.

(c) In addition to the requirements of Subsection (b) of this section, the commission, by rules and regulations, may establish other qualifications for the employment of fire protection personnel, including minimum age, education, physical and mental standards, citizenship, good moral character, experience, basic certification tests, continuing education or training programs, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of fire protection personnel, and the commission shall prescribe the means of presenting evidence of fulfillment of these requirements. No person shall be appointed unless he fulfills such requirements.

(e) Any person who accepts appointment to a [~~municipal~~] fire department, or any person who appoints or retains such individual, in violation of Subsections (b) or (c) of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than $100 nor more than $1,000.

(h) The commission shall formulate and publish the requirements for certification for [~~as a~~] marine fire protection personnel [~~fireman~~] by September 1, 1978. After September 1, 1978, no person may be appointed to [~~as~~] a marine fire protection personnel position [~~fireman~~] except on a probationary basis unless the person has completed training prescribed by the commission. Marine fire protection personnel who are [~~A marine fireman who is~~] appointed on a probationary basis after September 1, 1978, must complete the prescribed training within a two-year period from the date of appointment. Marine fire protection personnel [~~firemen~~] serving under permanent appointment and with five or more years of service on September 1, 1978, have satisfied the training requirements by their experience. Marine fire protection personnel [~~A marine fireman~~] serving under permanent appointment and with less than five years of experience on September 1, 1978, must complete the prescribed training by September 1, 1980. For the purposes of this Act, "marine fire protection personnel" means persons [~~a marine fireman is one~~] who work [~~works~~] for a fire department and aboard fireboats and fight [~~fights~~] fires which occur on or adjacent to a waterway, waterfront, channel, or turning basin.

(i) A person who accepts appointment to a marine fire protection personnel position [~~as a marine fireman~~] or a person who appoints marine fire protection personnel [~~a marine fireman~~] in violation of Subsection (h) of this section shall be guilty of a misdemeanor and on conviction shall be fined not less than $100 nor more than $1,000.

(j) Before September 1, 1984, the commission shall establish requirements for certification of [~~as an~~] aircraft crash and rescue fire protection personnel [~~fighter~~]. After September 1, 1984, no person may be appointed to [~~as~~] an aircraft crash and rescue fire protection personnel position [~~fighter~~], except on a probationary basis, unless the person has completed training prescribed by the commission. After September 1, 1984, [~~an~~] aircraft crash and rescue fire protection personnel who are [~~fighter who is~~] appointed on a probationary basis must complete the prescribed training before two years after the date of appointment. Aircraft [~~An aircraft~~] crash and rescue fire protection personnel who are [~~fighter who is~~] serving under permanent appointment on September 1, 1984, and who have [~~has~~] two or more years of service as [~~an~~] aircraft crash and rescue fire protection personnel have [~~fighter has~~] satisfied the training requirements. Aircraft [~~An aircraft~~] crash and rescue fire protection personnel [~~fighter~~] serving under permanent appointment on September 1, 1984, who have [~~has~~] less than two years of service as [~~an~~] aircraft crash and rescue fire protection personnel [~~fighter~~] must complete the prescribed training before September 1, 1986, to remain qualified for service. For purposes of this Act, "aircraft crash and rescue fire protection personnel" means persons [~~an aircraft crash and rescue fire fighter is one~~] who work [~~works~~] for a municipality and who, as a permanent duty assignment, fight [~~fights~~] aircraft fires at airports, stand [~~stands~~] by for potential crash landings, and perform [~~performs~~] aircraft crash rescue.

(k) A person who [~~knowingly~~] accepts appointment to [~~as~~] an aircraft crash and rescue fire protection personnel position [~~fighter~~] or a person who appoints [~~an~~] aircraft crash and rescue fire protection personnel [~~fighter~~] in violation of Subsection (j) of this section commits a misdemeanor and if convicted shall be fined not less than $100 nor more than $1,000.

(l) In addition to any other penalty imposed by law, a person who violates this section, or a rule or regulation adopted in accordance with this section, is subject to an administrative penalty in an amount set by the commission not to exceed $1,000 for each offense. The administrative penalty shall be assessed in a proceeding conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(m) The attorney general or the commission may institute a suit for an injunction to enforce this section. Venue for the suit is in a district court in the

county in which the violation is alleged to have occurred. The court may also award the commission a civil penalty not to exceed $1,000 for each violation, plus court costs and reasonable attorney's fees.

SECTION 4. Section 6A, Chapter 668, Acts of the 61st Legislature, Regular Session, 1969 (Article 4413(35), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6A. (a) The commission shall [~~may~~] set and collect a fee for a manual [~~distributed to fire fighters and trainees by the commission~~] stating rules, regulations, and minimum standards for fire protection personnel. The fee shall be in an amount not to exceed the cost of preparing, printing, and distributing the manual.

(b) The commission shall [~~may~~] set and collect a fee for each examination given to fire protection personnel for the purpose of basic certification under this Act. The fee shall be in an amount not to exceed the cost of preparing, printing, administering, and grading the examination [~~intermediate, advanced, and master certificate issued by the commission~~].

(c) The commission shall set and collect a fee for each certificate issued or renewed by the commission. The fees set by the commission under this subsection shall be in an amount sufficient to provide adequate revenue to cover the costs of operation of the commission, but may not exceed $30. All certificates, except certificates issued to fire protection personnel instructors who are not also engaged in other positions requiring annual certification, must be renewed annually [~~the fees authorized by this section in an amount not to exceed the costs of preparing, printing, and distributing the manual or certificate~~].

(d) The commission may by rule require that fees charged under Subsection (c) of this section be collected by the employing agency or entity and paid to the commission in the manner the commission may by rule require.

(e) The commission may by rule impose an administrative penalty in an amount set by the commission for failure to pay a fee required under Subsection (c) of this section.

SECTION 5. Section 8, Chapter 668, Acts of the 61st Legislature, Regular Session, 1969 (Article 4413(35), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. POWERS AND DUTIES OF LOCAL [~~MUNICIPAL OR COUNTY~~] GOVERNMENTS. Except as expressly provided in this Act, nothing herein contained shall be deemed to limit the powers, rights, duties, and responsibilities of local [~~municipal or county~~] governments, nor to affect provisions of Chapter 325, Acts of the 50th Legislature, 1947 (Article 1269m, Vernon's Texas Civil Statutes), Firemen's and Policemen's Civil Service Act.

SECTION 6. Sections 8A(a) and (g), Chapter 668, Acts of the 61st Legislature, Regular Session, 1969 (Article 4413(35), Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Effective January 1, 1984, every state, county, and municipal agency shall furnish all full-time, paid fire protection personnel who engage in fire fighting with protective clothing which complies with minimum standards promulgated by the National Fire Protection Association or its successor, or with minimum standards promulgated by the commission as prescribed by Subsection (g) of this section. In this section, "protective [~~"Protective~~] clothing" means garments, including turnout coats, bunker coats, boots, gloves, trousers, and helmets, worn by fire fighters in the course of performing fire-fighting operations. An agency complies with the requirements of this section by:

(1) providing and maintaining the prescribed protective clothing; or

(2) providing an allowance to fire protection personnel to cover the purchase and maintenance of the prescribed protective clothing and by requiring each employee to maintain the clothing to meet the prescribed standards.

(g) Notwithstanding Subsections (a) and (d) of this section, if the commission determines that protective clothing [~~containing cotton~~] provides substantially equal protection, the commission shall permit the state , county, and municipal agencies to use [~~cotton~~] protective clothing that the commission has determined to be acceptable instead of the protective clothing prescribed by the National Fire Protection Association.

SECTION 7. Subsections (a), (b), (c), and (g), Section 8A, Chapter 668, Acts of the 61st Legislature, Regular Session, 1969 (Article 4413(35), Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Each [~~Effective January 1, 1984, every~~] state or local government[~~, county, and municipal~~] agency providing fire protection shall furnish all [~~full time, paid~~] fire protection personnel employed by the agency who engage in fire fighting with protective clothing which complies with minimum standards promulgated by the National Fire Protection Associaiton or its successor. "Protective clothing" means garments, including turnout coats, bunker coats, boots, gloves, trousers, and helmets, worn by fire fighters in the course of performing fire-fighting operations. An agency complies with the requirements of this section by:

(1) providing and maintaining the prescribed protective clothing; or

(2) providing an allowance to fire protection personnel to cover the purchase and maintenance of the prescribed protective clothing and by requiring each employee to maintain the clothing to meet the prescribed standards.

(b) Each [~~Effective January 1, 1982, every~~] self-contained breathing apparatus purchased by a state or local government[~~, county, or municipal~~] agency providing fire protection must comply with the minimum approval and certification requirements of the National Institute For Occupational Safety and Health (or its successor) with respect to self-contained breathing apparatus for use by fire protection personnel [~~fighters~~].

(c) Each [~~Effective January 1, 1982, every~~] state or local government[~~, county, or municipal~~] agency shall provide for complete tests of all self-contained breathing apparatus utilized by the [~~in such~~] agency in conformance with testing procedures recommended by the National Institute For Occupational Safety and Health or American National Standards Institute, Inc. The tests required under this section shall be performed on each self-contained breathing apparatus at least once each 30 days.

(g) Notwithstanding Subsections(a) and (d) of this section, if the commission determines that protective clothing containing cotton provides substantially equal protection, the commission shall permit the state or local government[~~, county, and municipal~~] agencies to use cotton protective clothing that the commission has determined to be acceptable instead of the protective clothing prescribed by the National Fire Protection Association.

SECTION 8. Sections 9A and 10, Chapter 668, Acts of the 61st Legislature, Regular Session, 1969 (Article 4413(35), Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 9A. APPEAL FROM ACTION OF COMMISSION; PROCEDURE. (a) Any person dissatisfied with the action of the commission may appeal the action of the commission according to the provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) [~~by filing a petition within 30 days thereafter in the district court in the county where the person resides or in the district court of Travis County, and the court is vested with jurisdiction, and it shall be the duty of the court, to set the matter for hearing upon 10 days' written notice to the commission and the attorney representing the commission. The court in which the petition of appeal is filed shall determine whether any action of the commission shall be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the~~

~~commission, and the commission shall provide the attorney representing the commission with a copy of the petition and order~~].

(b) The commission shall be represented in an appeal under this section [~~such appeals~~] by the district or county attorney of the county, or the attorney general, or any of their assistants.

"Sec. 10. APPLICATION OF ACT. This Act applies [~~shall apply only~~] to fire protection personnel as defined by Section 1b of this Act, including fire protection personnel employed by one fire department who are also employed by another fire department in less than a full-time, full-paid capacity [~~fully paid firemen~~]."

Sec. 10. APPLICATION OF ACT. This Act applies [~~shall apply only~~] to fire protection personnel as defined by Section 1b of this Act, including fire protection personnel employed by one fire department who are also employed by another fire department in less than a full-time, full-paid capacity [~~fully paid firemen~~].

SECTION 9. For the period beginning January 1, 1986, and ending September 1, 1987, a fee referred to in Section 6A(c), Chapter 668, Acts of the 61st Legislature, Regular Session, 1969 (Article 4413(35), Vernon's Texas Civil Statutes), is set at $20. The Commission on Fire Protection Personnel Standards and Education may not begin to set the fees under that subsection until September 1, 1987.

SECTION 10. This Act takes effect September 1, 1985.

SECTION 11. 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 Lyon 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 1343 ON THIRD READING

Senator Lyon moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1343** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

CONFERENCE COMMITTEE ON HOUSE BILL 498

Senator Montford called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 498** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 498** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Montford, Chairman; Glasgow, Howard, Jones and Whitmire.

CONFERENCE COMMITTEE ON HOUSE BILL 1592

Senator Lyon called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1592** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1592** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lyon, Chairman; Henderson, Montford, Parker and Whitmire.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1002 WITHDRAWN

On motion of Senator Harris and by unanimous consent, the Conference Committee Report on **S.B. 1002** was withdrawn.

CONFERENCE COMMITTEE REPORT SENATE BILL 1002

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 1002** 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.

HARRIS	WALLACE
LEEDOM	SCHLUETER
BLAKE	C. HARRIS
HENDERSON	CAVAZOS
	DANBURG
On the part of the Senate	On the part of the House

A BILL ENTITLED TO BE AN ACT

relating to the powers, duties, and funding of certain state agencies and local governmental entities that perform functions related to the commemoration of the Texas sesquicentennial; prohibiting certain acts; making a tax exemption; making appropriations; amending Chapter 84, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 6145-11, Vernon's Texas Civil Statutes), by amending Subsection (e) of Section 2 and Section 7 and adding Section 7A and Subsection (d) to Section 4; amending Section 1, Chapter 548, Acts of the 67th Legislature, Regular Session, 1981 (Article 6145-11a, Vernon's Texas Civil Statutes); adding Articles 6145-11b and 6145-14a to Title 106, Revised Statutes; adding Section 151.334 to the Tax Code; and amending Article 156.251, Tax Code.

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

SECTION 1. Subsection (e), Section 2, Chapter 84, Acts of the 66th Legislature, Regular Session, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), is amended to read as follows:

"(e) An ex officio member or a member appointed by the speaker of the house of representatives or by the lieutenant governor may designate a representative to serve in the member's absence. A designated representative must be an officer or employee of the member's agency or organization, and for the executive committee may be another member of the board. The designated representative has all the powers and duties of the ex officio or legislative member."

SECTION 2. Section 4, Chapter 84, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 6145-11, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

"(d) There shall be created from the membership of the commission an executive committee composed of nine members: the chairman of the commission; two members designated by the governor from the governor's appointees; two members designated by the speaker of the house of representatives from the speaker's appointees; two members designated by the lieutenant governor from the lieutenant governor's appointees; the executive head of the Texas Tourist Development Agency; and the executive head of the Texas Commission on the Arts. Subject to disapproval by the commission, the executive committee may act on behalf of the commission for all purposes when the commission shall not be meeting, and shall have oversight and authority over all the activities of the commission and its employees in the full commission's absence."

SECTION 3. Chapter 84, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 6145-11, Vernon's Texas Civil Statutes), is amended by amending Section 7 and adding Section 7A to read as follows:

"Section 7. DUTIES. The commission shall:

"(1) encourage individuals, private organizations, and local governmental bodies to organize activities celebrating the state's sesquicentennial;

"(2) help individuals, private organizations, and local governmental bodies that organize sesquicentennial activities to coordinate the activities;

"(3) gather and disseminate information to the general public about sesquicentennial activities conducted in the state;

"(4) develop standards for sesquicentennial activities organized by individuals, private organizations, and local governmental bodies and sanction activities that comply with the standards;

"(5) invite national and international dignitaries to attend sesquicentennial activities conducted in the state;

"(6) encourage persons living outside the state to attend sesquicentennial activities conducted in the state;

"(7) develop and use an official state sesquicentennial [a] logo and register such logo in state and federal offices as a service mark or trademark and secure copyright on such logo and any other printed, visual, graphic, audio, or audiovisual materials developed hereunder [~~to be used by the commission and permit other persons to use the logo if the commission considers the use appropriate~~]; and

"(8) adopt rules to:

"(A) sanction official sponsors and official commemorative or promotional products; and

"(B) exclusively license the use of the official state sesquicentennial logo by official sponsors, including business and corporate sponsors, and producers of official commemorative or promotional products, in exchange for either a fee or royalties or both [~~sanction and may sell products, such as commemorative calendar or flag, commemorating the state's sesquicentennial~~].

"Section 7A. PROHIBITION. (a) An individual, company, association, or corporation that is not sanctioned or licensed by the commission may not use the official sesquicentennial logo in whole or in part, represent itself as a sponsor of the sesquicentennial, market a product as a commemorative or promotional product of the sesquicentennial or further violate any other provision of this Act.

"(b) No sanctioned individual, private organization, local sesquicentennial committee, or governmental body may grant or license any sesquicentennial sponsorship or use the official state sesquicentennial logo in whole or in part without the express approval of the Texas 1986 Sesquicentennial Commission.

"(c) The attorney general on behalf of the commission or a private lawyer approved by the attorney general is authorized to institute civil action against any violation of this Act and in addition to securing an injunction to prevent further violations may also recover actual damages for any violation and at the discretion of the court may recover statutory damages up to $5,000 per violation and attorney fees are obtainable."

SECTION 4. Section 1, Chapter 548, Acts of the 67th Legislature, Regular Session, 1981 (Article 6145-11a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. COUNTY SESQUICENTENNIAL COMMITTEES [~~COMMEMORATIVE MEDALS~~]. (a) The commissioners court of a county may appoint a committee to organize activities celebrating the state's sesquicentennial.

"(b) The commissioners court may appropriate funds from the general fund of the county that the committee may use to perform its functions.

"(c) The committee may accept donations, on behalf of the county, and use the donations to perform its functions.

"(d) The committee shall make quarterly reports of its activities to the commissioners court.

"(e) This Act expires on September 1, 1987 [~~The state treasurer may coin gold alloy medals commemorating the Texas sesquicentennial in one, one-half, one-fourth, and one-tenth of an ounce weights.~~

"[~~(b) The state treasurer shall sell any commemorative medals coined under this Act to the public at prices that are calculated to recover at least the costs of making and selling the medals.~~

"[~~(c) Sales of commemorative medals under this Act are exempt from state and local sales tax.~~

"[~~(d) If the state treasurer determines to coin commemorative medals under this Act, the Texas 1986 Sesquicentennial Commission shall conduct a contest to determine the design of the medals.~~

"[~~(e) In no event shall the sale issuance price of coined commemorative medals under this Act be less than the cost of production plus the cost of the gold and the intrinsic value~~]."

SECTION 5. Title 106, Revised Statutes, is amended by adding Article 6145-11b to read as follows:

"Article 6145-11b. SESQUICENTENNIAL FUND

"Section 1. Amounts received from the following sources shall be deposited in a special fund in the State Treasury to be known as the sesquicentennial fund and are appropriated for the purposes contained herein:

"(1) licensing fees and royalties authorized by Paragraph (B), Subdivision (8), Section 7, Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes); and

"(2) proceeds from the sale of medallions designated by the Texas 1986 Sesquicentennial Commission as lone stars under Article 6145-14a, Revised Statutes.

"Section 2. After the expiration of Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), the comptroller of public

accounts shall collect proceeds from royalties due under licenses granted by the Texas 1986 Sesquicentennial Commission.

"Section 3. As amounts from licensing fees, royalties, and the sale of medallions designated as lone stars by the Texas 1986 Sesquicentennial Commission are deposited in the fund:

"(1) the State Treasurer shall allocate the amounts equally between an account in the fund that may be used only by the Texas Tourist Development Agency and an account in the fund that may be used only by the Texas Commission on the Arts, until the account of the Texas Commission on the Arts has received $1,261,244; and

"(2) after the account for the Texas Commission on the Arts has received $1,261,244, the State Treasurer shall allocate the amounts only to the account of the Texas Tourist Development Agency until that account has received $2,291,996; and

"(3) after the account for the Texas Tourist Development Agency has received $2,291,996, the State Treasurer shall allocate the amounts equally among the account of the Texas Tourist Development Agency, the account of the Texas Commission on the Arts, and an account in the fund that may be used only by the Texas 1986 Sesquicentennial Commission, until the account of the Texas Commission on the Arts has received a total of $7,095,846 from amounts allocated under this subsection and Subdivision (1) of this section;

"(4) after the account for the Texas Commission on the Arts has received a total of $7,095,846 from amounts allocated under Subdivisions (1) and (3) of this section, the State Treasurer shall allocate the amounts equally between the accounts of the Texas Tourist Development Agency and the Texas 1986 Sesquicentennial Commission until the account of the Texas 1986 Sesquicentennial Commission has received a total of $10,000,000 from amounts allocated under this subdivision and Subdivision (3) of this section or until January 31, 1987, whichever shall first occur.

"(5) after the Texas 1986 Sesquicentennial Commission has received a total of $10,000,000 from the amounts allocated under Subdivisions (3) and (4) of this section, the State Treasurer shall allocate the amounts only to the account of the Texas Tourist Development Agency until the account of the Texas Tourist Development Agency has received a total of $15,145,604; and

"(6) after the Texas Tourist Development Agency has received a total of $15,145,604 from amounts allocated under this section, the State Treasurer shall allocate the amounts only to the account of the State Preservation Board.

"Section 4. (a) Money in the fund allocated to the Texas Tourist Development Agency under Subdivisions (1) and (2) of Section 3 of this article shall be used to publish an official tour guide of the sesquicentennial or for promotional activities for the Texas 1986 Sesquicentennial Commission.

"(b) Money in the fund allocated to the Texas Tourist Development Agency under Subdivisions (3), (4), and (5) of Section 3 of this article shall be used to advertise and promote the sesquicentennial both in and out of the state and for other activities as provided by law.

"(c) Money in the fund allocated to the Texas Commission on the Arts under Section 3 of this article shall be used for funding and supporting sesquicentennial projects and programs and to perform any of the functions of the commission.

"(d) Not less than one-half the money in the fund allocated to the Texas 1986 Sesquicentennial Commission shall be distributed to local official sesquicentennial committees sanctioned by the commission according to procedures adopted by the commission.

"(e) Money in the fund allocated to the Texas 1986 Sesquicentennial Commission that is not distributed to local official sesquicentennial committees under Subsection (d) of this section or used to reimburse the comptroller of public

accounts for audit services provided under Section 5 of this article shall be used to advertise and promote the sesquicentennial both in and out of state through interagency contracts with the Texas Tourist Development Agency.

"Section 5. The Texas 1986 Sesquicentennial Commission may audit any official sesquicentennial licensee or product manufacturer. At the request of the commission, the comptroller of public accounts shall perform the audit. The comptroller of public accounts shall be reimbursed for services provided under this section from money provided for that purpose under Subsection (e) of Section 4 of this article."

SECTION 6. Title 106, Revised Statutes, is amended by adding Article 6145-14a to read as follows:

"Article 6145-14a. LONE STAR MEDALLIONS. (a) The Texas 1986 Sesquicentennial Commission shall designate a one ounce silver lone star medallion and one, one-half, one-fourth, and one-tenth ounce gold lone star medallions as official commemorative medallions of the sesquicentennial.

"(b) The board shall contract for the production, marketing, and distribution of the medallions.

"(c) The board shall deposit the proceeds from the sale of medallions to the credit of the sesquicentennial fund."

SECTION 7. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.334 to read as follows:

"Section 151.334. LONE STAR MEDALLIONS. Medallions designated as lone stars by the Texas 1986 Sesquicentennial Commission under Article 6145-14a, Revised Statutes, are exempted from the taxes imposed by this chapter."

SECTION 8. Article 156.251, Tax Code, is amended to read as follows:

"Article 156.251. REVENUE DEPOSITED IN GENERAL REVENUE FUND. (a) The revenue from the tax imposed by this chapter shall be deposited in the state treasury to the credit of the general revenue fund.

"(b) For the purposes of **S.B. 1002**, 69th Legislature, Regular Session, the comptroller of public accounts shall prepare, no later than September 18, 1985, a forecast of hotel and motel tax revenue for the first five three-month periods of the 1986-1987 biennium. The total of such forecasts shall not exceed the January, 1985, revenue estimates for hotel and motel tax revenue of $70,751,000 for Fiscal Year 1986 and $76,057,000 for Fiscal Year 1987. Amounts actually collected from the hotel and motel tax for Fiscal Year 1986 in excess of the estimate, not to exceed $5,000,000, are hereby appropriated for the biennium ending August 31, 1987, to the Texas Tourist Development Agency for media advertising and other marketing activities. The following or some similar procedure shall be used by the comptroller of public accounts in calculating the quarterly transfers:

"(i) if at the end of the second three-month period, actual hotel and motel tax receipts for the first quarter exceed the estimate previously established for that quarter and the actual receipts for the second quarter are at least equal to the sum of the estimate for the second quarter and any amounts received in the first quarter in excess of the estimate for that quarter, then there is hereby appropriated as of March 2, 1986, from the General Revenue Fund to the Texas Tourist Development Agency the amount by which receipts for the first quarter exceed the estimate for that quarter;

"(ii) if at the end of the third three-month period, actual hotel and motel tax receipts for the second quarter exceed the estimate previously established for that quarter and the actual receipts for the third quarter are at least equal to the sum of the estimate for the third quarter and any amounts received in the second quarter in excess of the estimate for that quarter, then there is hereby appropriated as of June 2, 1986, from the General Revenue Fund to the Texas Tourist Development Agency the amount by which receipts for the second quarter exceed the estimate for that quarter;

"(iii) if at the end of the fourth three-month period, actual hotel and motel tax receipts for the third quarter exceed the estimate previously established for that quarter and the actual receipts for the fourth quarter are at least equal to the sum of the estimate for the fourth quarter and any amounts received in the third quarter in excess of the estimate for that quarter, then there is hereby appropriated as of September 2, 1986, from the General Revenue Fund to the Texas Tourist Development Agency the amount by which receipts for the third quarter exceed the estimate for that quarter;

"(iv) if at the end of the fifth three-month period, actual hotel and motel tax receipts for the fourth quarter exceed the estimate previously established for that quarter and the actual receipts for the fifth quarter are at least equal to the sum of the estimate for the fifth quarter and any amounts received in the fourth quarter in excess of the estimate for that quarter, then there is hereby appropriated as of December 2, 1986, from the General Revenue Fund to the Texas Tourist Development Agency the amount by which receipts for the fourth quarter exceed the estimate for that quarter.

"(c) Except with respect to appropriations authority for the 1987 fiscal year, Subsection (b) expires as of December 31, 1986."

SECTION 9. EFFECT OF PARTIAL INVALIDITY. (a) The legislature declares that it would not have enacted this Act without the inclusion of Sections 1 and 2 of this Act to the extent those sections provide for broad representation on the commission and for executive committee management of commission affairs between commission meetings. If the appointments provided by this Act are for any reason held invalid by a final judgment of a court of competent jurisdiction, the remainder of this Act and Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), are void.

(b) Except as provided by Subsection (a) of this section, this Act is severable as provided by Chapter 45, Acts of the 63rd Legislature, Regular Session, 1973 (Article 11a, Vernon's Texas Civil Statutes).

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.

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 540 ADOPTED

Senator Whitmire called from the President's table the Conference Committee Report on **S.B. 540** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 25, 1985.)

On motion of Senator Whitmire, the Conference Committee Report was adopted by the following vote: Yeas 20, Nays 10.

Yeas: Barrientos, Brooks, Caperton, Edwards, Farabee, Green, Harris, Kothmann, Lyon, McFarland, Mauzy, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Truan, Washington, Whitmire.

Nays: Blake, Brown, Glasgow, Henderson, Howard, Jones, Krier, Leedom, Montford, Traeger.

Absent: Uribe.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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:

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 725**. House Conferees: P. Hill, Chairman; C. Evans, C. Harris, Messer, Granoff.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 967**. House Conferees: Geistweidt, Chairman; Robnett, Saunders, Schlueter, T. Smith.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1125**. House Conferees: Schlueter, Chairman; Jackson, McKinney, R. Lewis, Morales.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1455**. House Conferees: Hinojosa, T. Smith, Bush, A. C. Garcia, Tejeda.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 399**. House Conferees: Smithee, Chairman; Roberts, Riley, McKinney, Short.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1298**. House Conferees: Rudd, Chairman; Riley, Keller, Hightower, Laney.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 283**. House Conferees: Madla, Chairman; Hollowell, Adkisson, Wallace, Millsap.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 96(h) SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 1002**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1002 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **S.B. 1002**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Harris, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 2433 ON SECOND READING

On motion of Senator Sharp 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. 2433, Relating to the administration, powers, duties, and operations of road utility districts and conservation and reclamation districts operating with road utility district powers; amending Article 6674r-1, Vernon's Texas Civil Statutes, and Chapter 50, Water Code.

The bill was read second time.

Senator Sharp offered the following amendment to the bill:

Amend **H.B. 2433** by amending the caption by striking line 12 and inserting the following:

6674r-1, Vernon's Texas Civil Statutes, and Chapter 54, Water Code; and by amending Section 1(d) by striking it in its entirety and inserting the following:

(d) By order of its governing board, which has received the written consent of the landowners within its boundaries, a conservation and reclamation district, operating pursuant to Chapter 54, Water Code, and which has the power to levy taxes, may, with the approval of the Texas Water Commission, petition the commission to acquire the powers granted in this Act to a road utility district, under the authority of Article III, Section 52, Texas Constitution. As soon as practicable after such petition by the conservation and reclamation district has been filed with the commission, the commission shall conduct a hearing in accordance with Section 7 of this Act and shall issue an order in accordance with Section 8 of this Act either approving or denying such petition by the conservation and reclamation district.;

and by amending Section 7 by striking lines 32, 33, and 34 and inserting the following:

Section 7. Chapter 54, Water Code, is amended by adding Section 54.234 to read as follows:

Section 54.234. ACQUIRING ROAD UTILITY DISTRICT POWERS. Any and by adding Section 8 to the bill and re-numbering the existing sections accordingly, to read as follows:

Section 8. Chapter 54, Water Code, is amended by adding Section 54.235 to read as follows:

Section 54.235. Any district created by general law or special act of the legislature in existence for at least ten years which lies within a county that borders on the Gulf of Mexico and that has a population of one hundred and ninety thousand (190,000) and which has the powers of this Chapter and whish also has or is authorized to acquire road utility district powers pursuant to Section 54.235, Water Code, may contract with the county within which it is located with respect to the ownership, maintenance, and operation of any facilities or improvements which such district is authorized or may be authorized to acquire by purchase, gift, lease, or otherwise, except by condemnation, any and all property or interests in property, whether real, personal, or mixed, tangible or intangible, located inside or outside such county, that are found to be necessary for such improvements or facilities. Such county may enter into contracts with such districts as permitted by this Section for any term of years not exceeding forty (40) for the management and oepration of any or all of such property and interests in property on such terms as

the Commissioners Court of such county deems appropriate. If for any reason the authority granted in this section should be invalid, such fact shall not affect the validity of any other provisions of this Act, and the legislature hereby declares that it would have enacted the valid provisions of this Act notwithstanding the invalidity of this section.

The amendment was read and was adopted.

On motion of Senator Sharp 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.

COMMITTEE SUBSTITUTE HOUSE BILL 2433 ON THIRD READING

Senator Sharp 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. 2433** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

(Senator Brooks in Chair)

HOUSE BILL 1776 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. 1776, Relating to the definition of "bet" for the purposes of the Penal Code prohibition against gambling.

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

RECORD OF VOTE

Senator Lyon asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1776 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. 1776** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, McFarland, Mauzy, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Traeger, Truan, Uribe, Whitmire.

Nays: Lyon, Montford, Sims, Washington.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Lyon, Montford and Sims asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 1964 ON SECOND READING

On motion of Senator Edwards 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. 1964, Relating to the authority of the secretary of state to interpret and administer the law providing standards of conduct for certain public officers and employees and to reliance on those interpretations.

The bill was read second time.

Senator Edwards offered the following amendment to the bill:

Amend **H.B. 1964** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), is amended by adding Section 12B to read as follows:

Sec. 12B. INTERPRETATION AND ADMINISTRATION. (a) The secretary of state shall interpret and administer this Act, excluding Sections 6, 7, and 8 of this Act, and shall make the interpretations and administrative rulings available to any person on request.

(b) It is a defense to prosecution under this Act that the person reasonbly relied on a written interpretaiton or administrative ruling relating to the provision of law the person is alleged to have violated.

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 amendment was read and was adopted.

On motion of Senator Edwards 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 1964 ON THIRD READING

Senator Edwards moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1964** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT
SENATE BILL 1170

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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.

FARABEE	MESSER
LYON	McDONALD
SHARP	WALDROP
WHITMIRE	T. SMITH
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the meetings of the Texas State Board of Medical Examiners, to registration of practitioners and interns, to grounds for refusal to admit persons to examinations and to issue licenses and renewal licenses, and to hearings, rules, and to judicial review; amending Section 2.07; Subsections (b) and (g), Section 3.01; Section 3.08; Subsection (a), Section 4.05; and Section 4.09, Medical Practice Act, as amended (Article 4495b, Vernon's Texas Civil Statutes).

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

SECTION 1. Section 2.07, Medical Practice Act, as amended (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2.07. MEETINGS OF THE BOARD. At the first meeting of the board after each biennial appointment, the board shall elect from its members a president, vice-president, secretary-treasurer, and other officers as are required, in the opinion of the board, to carry out its duties. Regular meetings shall be held at least twice a year at times and places as the board shall consider most convenient for applicants and board members. Special meetings may be held in accordance with rules adopted by the board. After hearing all evidence and arguments in open meeting, the board may in its discretion conduct deliberations relative to applications for licensure and licensee displinary actions in executive sessions. The board shall vote and announce its decisions in open session."

SECTION 2. Subsection (b), Section 3.01, Medical Practice Act, as amended (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

"(b) Physicians not otherwise licensed by the board who are participating in graduate medical education training programs approved by the board may be issued institutional permits as provided by rules of the board. A reasonable fee shall be charged and deposited into the medical registration fund. This permit [~~Any person desiring to serve in this state as an intern, resident, or fellow in graduate medical education programs herein described who is not otherwise licensed by the board shall register with the board within 30 days after beginning service as an intern, resident, or fellow, and annually thereafter, and shall pay the fee as the board may determine to be reasonable. Upon registration, a permit shall be issued annually to the interns, residents, and fellows participating in graduate medical education programs at hospitals and other medical institutions approved by the board on request of the hospitals or medical institutions as provided by rules of the board. The fee shall be deposited in the medical registration fund. Registration as an intern, resident, or fellow~~] does not authorize the performance of medical acts except as the acts are performed as a part of graduate medical education programs and under the supervision of a licensed practitioner of medicine."

SECTION 3. Subsection (g), Section 3.01, Medical Practice Act, as amended (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

"(g) The annual registration fee shall apply to all persons licensed by the board, whether or not they are practicing within the borders of this state, except retired physicians as provided by rules of the board."

SECTION 4. Section 3.08, Medical Practice Act, as amended (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3.08. GROUNDS FOR REFUSAL TO ADMIT PERSONS TO EXAMINATION AND TO ISSUE LICENSE AND RENEWAL LICENSE. The board may refuse to admit persons to its examinations and to issue a license to practice medicine to any person for any of the following reasons:

"(1) submission of a false or misleading statement, document, or certificate to the board in an application for examination or licensure; the presentation to the board of any license, certificate, or diploma that was illegally or fraudulently obtained; the practice of fraud or deception in taking or passing an examination;

"(2) conviction of a crime of the grade of a felony or a crime of a lesser degree that involves moral turpitude;

"(3) intemperate use of alcohol or drugs that, in the opinion of the board, could endanger the lives of patients;

"(4) unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public. Unprofessional or dishonorable conduct likely to deceive or defraud the public includes but is not limited to the following acts:

"(A) committing any act that is in violation of the laws of the State of Texas if the act is connected with the physician's practice of medicine. A complaint, indictment, or conviction of a law violation is not necessary for the enforcement of this provision. Proof of the commission of the act while in the practice of medicine or under the guise of the practice of medicine is sufficient for action by the board under this section;

"(B) failing to keep complete and accurate records of purchases and disposals of drugs listed in the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), or of controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91-513). A physician shall keep records of his purchases and disposals of these drugs to include without limitation the date of purchase, the sale or disposal of the drugs by the physician, the name and address of the person receiving the drugs, and the reason for the disposing or dispensing of the drugs to the person. A failure to keep the records for a reasonable time is grounds for revoking, canceling, suspending, or probating the license of any practitioner of medicine. The board or its representative may enter and inspect a physician's place(s) of practice during reasonable business hours for the purpose of verifying the correctness of these records and of taking inventory of the prescription drugs on hand;

"(C) writing prescriptions for or dispensing to a person known to be a habitual user of narcotic drugs, controlled substances, or dangerous drugs or to a person who the physician should have known was a habitual user of the narcotic drugs, controlled substances, or dangerous drugs. This provision does not apply to those persons being treated by the physician for their narcotic use after the physician notifies the board in writing of the name and address of the person being so treated;

"(D) writing false or fictitious prescriptions for dangerous drugs as defined by Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes), of controlled substances scheduled in the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), or of controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91-513);

"(E) prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed;

"(F) prescribing, administering, or dispensing in a manner not consistent with public health and welfare dangerous drugs as defined by Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes), controlled substances scheduled in the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), or controlled substances scheduled in the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91-513);

"(G) persistently and flagrantly overcharging or overtreating patients;

"(H) failing to supervise adequately the activities of those acting under the supervision of the physician; or

"(I) delegating professional medical responsibility or acts to a person if the delegating physician knows or has reason to know that the person is not qualified by training, experience, or licensure to perform the responsibility or acts;

"(5) violation or attempted violation, direct or indirect, of any valid rules issued under this Act, either as a principal, accessory, or accomplice;

"(6) use of any advertising statement that is false, misleading, or deceptive;

"(7) advertising professional superiority or the performance of professional service in a superior manner if the advertising is not readily subject to verification;

"(8) purchase, sale, barter, or use or any offer to purchase, sell, barter, or use any medical degree, license, certificate, diploma, or transcript of license, certificate, or diploma in or incident to an application to the board for a license to practice medicine;

"(9) altering, with fraudulent intent, any medical license, certificate, diploma, or transcript of a medical license, certificate, or diploma;

"(10) using any medical license, certificate, diploma, or transcript of a medical license, certificate, or diploma that has been fraudulently purchased, issued, or counterfeited or that has been materially altered;

"(11) impersonating or acting as proxy for another in any examination required by this Act for a medical license; or engaging in conduct which subverts or attempts to subvert any examination process required by this Act for a medical license. Conduct which subverts or attempts to subvert the medical licensing examination process includes, but is not limited to: (A) conduct which violates the security of the examination materials, as prescribed by board rules; (B) conduct which violates the standard of test administration, as prescribed by board rules; (C) conduct which violates the accreditation process, as prescribed by board rules;

"(12) impersonating a licensed practitioner or permitting or allowing another to use his license or certificate to practice medicine in this state for the purpose of diagnosing, treating, or offering to treat sick, injured, or afflicted human beings;

"(13) employing, directly or indirectly, any person whose license to practice medicine has been suspended or association in the practice of medicine with any person or persons whose license to practice medicine has been suspended or any person who has been convicted of the unlawful practice of medicine in Texas or elsewhere;

"(14) performing or procuring a criminal abortion or aiding or abetting in the procuring of a criminal abortion or attempting to perform or procure a criminal abortion or attempting to aid or abet the performance or procurement of a criminal abortion;

"(15) aiding or abetting, directly or indirectly, the practice of medicine by any person, partnership, association, or corporation not duly licensed to practice medicine by the board;

"(16) inability to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or

any other type of material or as a result of any mental or physical condition. In enforcing this subdivision the board shall, upon probable cause, request a physician to submit to a mental or physical examination by physicians designated by the board. If the physician refuses to submit to the examination, the board shall issue an order requiring the physician to show cause why he should not be required to submit to the examination and shall schedule a hearing on the order within 30 days after notice is served on the physician. The physician shall be notified by either personal service or certified mail with return receipt requested. At the hearing, the physician and his attorney are entitled to present any testimony and other evidence to show why the physician should not be required to submit to the examination. After a complete hearing, the board shall issue an order either requiring the physician to submit to the examination or withdrawing the request for examination. An appeal from the decision of the board shall be taken under the Administrative Procedure Act;

"(17) judgment by a court of competent jurisdiction that a person licensed to practice medicine is of unsound mind;

"(18) professional failure to practice medicine in an acceptable manner consistent with public health and welfare;

"(19) being removed, suspended, or having disciplinary action taken by his peers in any professional medical association or society, whether the association or society is local, regional, state, or national in scope, or being disciplined by a licensed hospital or medical staff of a hospital, including removal, suspension, limitation of hospital privileges, or other disciplinary action, if that action in the opinion of the board was based on unprofessional conduct or professional incompetence that was likely to harm the public, provided that the board finds that the actions were appropriate and reasonably supported by evidence submitted to it. The action does not constitute state action on the part of the association, society, or hospital medical staff;

"(20) repeated or recurring meritorious health-care liability claims that in the opinion of the board evidence professional incompetence likely to injure the public; or

"(21) suspension, revocation, or restriction by another state of a license to practice medicine, or disciplinary action by the uniformed services of the United States, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of the state taking the action is conclusive evidence of it."

SECTION 5. Subsection (a), Section 4.05, Medical Practice Act, as amended (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) The president of the board shall designate one of the following alternative procedures for the conduct of each individual contested case in a disciplinary matter:

"(1) a hearing before the board itself where a quorum of the board shall be present for the hearing and decision at the conclusion of the hearing;

"(2) a hearing committee appointed by the president of the board, provided that the hearing committee shall be composed of not less than three members of the board and the composition of such committee shall be consistent with the provisions of Sections 2.08 and 2.09 of this Act; or

"(3) a hearing before a hearing examiner appointed by the board to conduct a hearing and to prepare and submit to the board for action a proposal for decision as provided in the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

"Any individual conducting a hearing under this subchapter is empowered to administer oaths and to receive evidence at the hearing and shall report the hearing as prescribed by board rules. Notwithstanding any other provision of this Act or

other law, the board may, in its sole discretion, employ, retain, and compensate such attorneys, consultants, and other professionals as it deems necessary and appropriate to serve as hearing examiners, board consultants, special counsel to prosecute on behalf of the hearings division and investigating division such complaints as are filed with the board, court reporters, and other staff deemed necessary or appropriate by the board to prepare for or conduct the hearings authorized by this section. All hearings conducted under this subchapter by the board shall comply with the provisions of the Administrative Procedure Act and the board's rules. [~~The board may delegate the authority to conduct hearings under this subchapter to a hearing committee comprised of not less than three members appointed by the board. The composition of such committee shall be consistent with the provisions of Sections 2.08 and 2.09 of this Act. Any individual or individuals conducting a hearing under this subchapter are empowered to administer oaths and receive evidence at the hearing and shall report the hearing as prescribed by board rules.~~]"

SECTION 6. Section 4.09, Medical Practice Act, as amended (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 4.09. JUDICIAL REVIEW. (a) Any person whose license to practice medicine has been canceled, revoked, suspended, or otherwise disciplined by the board may, within 30 days after the decision complained of is final and appealable, take an appeal to [~~any of the district courts in the licensee's county of residence, if the county of residence is at the time of the hearing in Texas. Otherwise, the appeal shall be taken to~~] one of the district courts of Travis County.

"(b) The proceedings on appeal shall be under the substantial evidence rule as provided for in the Administrative Procedure Act."

SECTION 7. Section 5.09 or 5.06, Medical Practice Act, as amended (Article 4495b, Vernon's Texas Civil Statutes), amends subsections (a), (b), and (e) in the following manner:

"Sec. 5.06. (a) Any medical peer review committee in this state, [~~and~~] any physician licensed to practice medicine or otherwise lawfully practicing medicine in this state, any physician engaged in graduate medical education or training, or any medical student may report relevant [~~facts~~] information to the board relating to the acts of any physician in this state if, in the opinion of the medical peer review committee, [~~or the~~] physician, or medical student, [~~they have knowledge~~] that information relating to the physician [~~that~~] reasonably raises a question with respect to his competency.

(b) Any committee of a professional society comprised primarily of physicians, its staff, or any district or local intervenor participating in a program established to aid physicians whose ability to practice medicine is impaired by drug or alcohol abuse or mental or physical illness may report to the board the name of the impaired physician together with the pertinent information relating to that impairment. A professional society in this state comprised primarily of physicians that takes formal disciplinary action against a member relating to professional ethics, medical incompetency, moral turpitude, or drug or alcohol abuse may also report [~~in writing~~] to the board the name of the member, together with the pertinent information relating to the action.

(e)(3) In no event may records and reports disclosed pursuant to this article by the board to others, or reports and records received, maintained, or developed by the board, [~~or disclosed by the board to others, pursuant to this article,~~] by a medical organization committee described in subsections (a) or (b) of this section, or by a member of such a committee, be available for discovery or court subpoena or introduced into evidence in a medical professional liability suit [~~or other action for damages~~] arising out of the provision of or failure to provide medical or health care services, or in any other action for damages.

(f) The following persons are immune from civil liability:

(1) a person reporting to or furnishing information to a medical peer review committee;

(2) [~~a member, employee, or agent of the medical peer review committee who assists in the organization, investigation, or preparation of information or who makes a report on other information available to the board pursuant to this subsection, and~~] a member, employee, or agent of the board, a member, employee, or agent of a medical peer review committee, a member, employee, or agent of a medical organization committee, or a medical organization district or local inteveno who takes any action or makes any recommendation within the scope of the functions of the board, committee, or inteveno program, if such member, employee, or agent acts without malice and in the reasonable belief that such action or recommendation is warranted by the facts known to him;

(3) any member or employee of the board or any person who assists the board in carrying out its duties or functions provided by law."

SECTION 8. 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 was filed with the Secretary of the Senate.

HOUSE BILL 1744 ON SECOND READING

On motion of Senator Blake 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. 1744, Relating to the shipment of certain unused drugs to foreign countries.

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

HOUSE BILL 1744 ON THIRD READING

Senator Blake moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1744** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE CONCURRENT RESOLUTION 188

Senator Jones offered the following resolution:

WHEREAS, **H.B. 20** of the 69th Legislature, the General Appropriations Act, contains a technical error and a clerical correction is necessary to clarify a provision of the bill; now, therefore, be it

RESOLVED by the Legislature of the State of Texas, That the enrolling clerk of the House of Representatives be instructed to strike Item No. 2, page I-110, in the appropriations to the Industrial Accident Board, and substitute the following:

2. In addition to the appropriations made above, there is hereby appropriated in Item 1.d., Other Administration, $15,792 in fiscal year 1986 and $15,792 in fiscal year 1987; in Item 2., Staff Services, $8,232 in fiscal year 1986 and $8,232 in fiscal

year 1987; in Item 3., Records Maintenance, $59,490 in fiscal year 1986 and $59,490 in fiscal year 1987; in Item 4., Review and Pre-hearing of Claim Files, $75,192 in fiscal year 1986 and $75,192 in fiscal year 1987; in Item 5., Awards Evaluation, $1,620 in fiscal year 1986 and $1,620 in fiscal year 1987, contingent upon passage of House Bill No. 724 increasing the gross premiums tax on workers' compensation policies.

The resolution was read.

On motion of Senator Jones and by unanimous consent, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2228 ON SECOND READING

On motion of Senator Edwards 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. 2228, Relating to the requirement that an institution of higher education adopt rules regarding faculty workloads.

The bill was read second time.

Senator Edwards offered the following committee amendment to the bill:

Amend **H.B. 2228** by striking lines 9-16 and substituting therefor the following:

faculty academic workloads. In adopting rules under this subsection, each institution shall recognize that classroom teaching, research, technology transfer, and professional development are important elements of faculty academic workloads by giving appropriate weight to each activity when determining the standards for faculty academic workload. An institution may give the same or different weights to each activity and to other activities recognized by the institution as important elements of faculty academic workloads. The established rules and

The committee amendment was read and was adopted.

On motion of Senator Edwards 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 2228 ON THIRD READING

Senator Edwards moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2228** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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:

The House has adopted the Conference Committee Report on **S.B. 699** by a non-record vote.

The House has concurred in Senate amendments to the following non-record votes.

H.B. 788
H.B. 1732
H.B. 2474
H.B. 1573
H.B. 1304
H.B. 1335
H.B. 1569
H.B. 2386
H.B. 196
H.B. 2388

The House refused to concur in Senate amendments to **H.B. 1323** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Danburg, T. Smith, Hury, Parker, Schoolcraft.

The House has adopted the Conference Committee Report on **H.B. 393** by a non-record vote.

S.C.R. 171, Designating Betty Lindeman, R.N. "Capitol Nurse".

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE JOINT RESOLUTION 89 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:

H.J.R. 89, Proposing a constitutional amendment relating to the authority of the legislature to regulate the provision of health care by hospital districts.

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

HOUSE JOINT RESOLUTION 89 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 **H.J.R. 89** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 393 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on **H.B. 393**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 26, 1985.)

On motion of Senator Caperton, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Caperton and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 1811**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1811 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on **H.B. 1811**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Caperton, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2461 ADOPTED

Senator Brown called from the President's table the Conference Committee Report on **H.B. 2461**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 25, 1985.)

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

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 433 ADOPTED

Senator Mauzy called from the President's table the Conference Committee Report on **H.B. 433**. (The Conference Committee Report having been filed with the Senate and read on Thursday, May 23, 1985.)

On motion of Senator Mauzy, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON HOUSE BILL 1323

Senator Washington called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1323** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 1323** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Washington, Chairman; Caperton, Green, McFarland and Whitmire.

HOUSE BILL 875 ON SECOND READING

On motion of Senator Barrientos 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. 875, Relating to certain motor vehicles subject to the Texas Litter Abatement Act.

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

HOUSE BILL 875 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 875** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1007 ON SECOND READING

On motion of Senator Blake 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. 1007, Relating to county regulation of persons who transport certain waste materials from one location to another; providing a penalty.

The bill was read second time.

Senator Blake offered the following amendment to the bill:

Amend **H.B. 1007** (Committee Printing) as follows:

(1) On page 1, line 9 after the word "another" strike the remainder of the line and insert a period in lieu thereof.

(2) On page 1, lines 25-41 strike SECTION 2 and substitute in lieu thereof the following:

SECTION 2. COUNTY REGISTRATION. To protect the public health, safety, or welfare, the commissioners court of a county may adopt ordinances that require a waste hauler who transports waste in the unincorporated area of the county to be registered by the county.

(3) Add a new SECTION 3 to read as follows:

SECTION 3. This Act shall not apply to an individual, corporation, association, or other legal entity who transports recyclable materials to a collection center or recycling plant, or to a waste hauler while transporting waste on behalf of an incorporated city or town or other governmental entity.

(4) Delete current SECTIONS 3 through 8 and renumber SECTION 9 as SECTION 4.

The amendment was read and was adopted.

On motion of Senator Blake 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 1007 ON THIRD READING

Senator Blake moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1007** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Sims.

HOUSE BILL 913 ON SECOND READING

On motion of Senator Parmer 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. 913, Relating to punishment for the offense of passing a school bus while the bus is stopped.

The bill was read second time.

Senator Parmer offered the following committee amendment to the bill:

Committee Amendment No. 1

Amending **H.B. 913** by substituting "$75" for "$50" in Subsection (a) of SECTION 1.

Amending **H.B. 913** by substituting the following for SECTION 2 and renumbering the subsequent SECTIONS appropriately:

SECTION 2. Subsection (a), Section 143A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) When a person is charged with a misdemeanor offense under this Act, other than a violation of Section 51 <u>or 104</u>, committed while operating a motor vehicle, the court:

(1) in its discretion may defer proceedings and allow the person 90 days to present evidence that, subsequent to the alleged act, the person has successfully completed a defensive driver's course approved by the Texas Department of Public Safety or other driving safety course approved by the court; or

(2) shall defer proceedings and allow the person 90 days to present written evidence that, subsequent to the alleged act, the person has successfully completed a defensive driver's course approved by the Texas Department of Public Safety or other driving safety course approved by the court, if:

(A) the person presents to the court an oral request or written motion to take a course;

(B) the person has a valid Texas driver's license or permit; and

(C) the person's driving record as maintained by the Texas Department of Public Safety does not indicate successful completion of a driving safety course under this subdivision within the two years immediately preceding the date of the alleged offense.

The amendment was read.

Senator Parmer offered the following substitute for Committee Amendment No. 1:

Floor Amendment No. 1

Striking everything below the enacting clause and substituting the following for the text of **H.B. 913**:

SECTION 1. Subsection (a), Section 104, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The driver of a vehicle upon a highway inside or outside of a business or residence district upon meeting or overtaking from either direction any school bus

which has stopped on the highway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on said school bus a visual signal as specified in Section 124 of this Act, and said driver shall not proceed until such school bus resumes motion or is signaled by the school bus driver to proceed or the visual signals are no longer actuated. A violation of this subsection is punishable by a fine of not less than $50 nor more than $200.

SECTION 2. This Act takes effect September 1, 1985, and applies only to the punishment for an offense committed on or after that date. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted.

Committee Amendment No. 1 as substituted was then adopted.

On motion of Senator Parmer 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 913 ON THIRD READING

Senator Parmer moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 913** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

MOTION TO PLACE HOUSE BILL 1206 ON SECOND READING

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

H.B. 1206, Relating to notification of certain members of the legislature before a state agency may establish or relocate branch offices of the agency.

There was objection.

Senator Leedom then moved to suspend the regular order of business and take up **H.B. 1206** for consideration at this time.

The motion was lost by the following vote: Yeas 11, Nays 15.

Yeas: Blake, Brown, Harris, Henderson, Kothmann, Krier, Leedom, McFarland, Montford, Sims, Traeger.

Nays: Barrientos, Caperton, Edwards, Farabee, Glasgow, Howard, Jones, Mauzy, Parker, Parmer, Santiesteban, Sharp, Truan, Uribe, Washington, Whitmire,

Absent: Brooks, Green, Lyon, Sarpalius.

(Senator Uribe in Chair)

MOTION TO PLACE HOUSE BILL 214 ON SECOND READING

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

H.B. 214, Relating to restrictions on municipal employees concerning retirement and job advancement; providing a penalty.

There was objection.

Senator Brown then moved to suspend the regular order of business and take up **H.B. 214** for consideration at this time.

The motion was lost by the following vote: Yeas 15, Nays 10. (Not receiving two-thirds vote of Members present)

Yeas: Brooks, Brown, Harris, Henderson, Kothmann, Krier, Leedom, Mauzy, McFarland, Parmer, Santiesteban, Sims, Truan, Uribe, Washington.

Nays: Barrientos, Blake, Edwards, Farabee, Glasgow, Green, Jones, Sharp, Traeger, Whitmire.

Absent: Caperton, Howard, Lyon, Montford, Parker, Sarpalius.

(President in Chair)

CONFERENCE COMMITTEE REPORT
SENATE BILL 283

Senator Glasgow submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 283** 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.

GLASGOW	MADLA
SHARP	HOLLOWELL
PARMER	ADKISSON
URIBE	WALDROP
HARRIS	MILLSAP
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the use of peer review committees to evaluate and mediate disputes between licensed chiropractors and persons obligated to pay a fee for chiropractic services and to qualifications of committee members, to their appointment, and their immunity from liability; amending Sections 1, 2, 3, 4, and 5, Chapter 286, Acts of the 64th Legislature, Regular Session, 1975, and Section 17a, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949, as added (Articles 4512b(1) and 4512b, Vernon's Texas Civil Statutes).

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

SECTION 1. Section 1, Chapter 286, Acts of the 64th Legislature, Regular Session, 1975 (Article 4512b(1), Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. DEFINITIONS. In this Act:

"(1) [~~article~~] 'Chiropractor [~~chiropractor~~]' means a person licensed to practice chiropractic by the Texas Board of Chiropractic Examiners.

"(2) 'Board' means the Texas Board of Chiropractic Examiners."

SECTION 2. Section 2, Chapter 286, Acts of the 64th Legislature, Regular Session, 1975 (Article 4512b(1), Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2. PEER REVIEW COMMITTEES. (a) The chiropractors practicing in this state may nominate to the Board volunteers [~~elect~~] from their membership to conduct [~~a committee which may be denominated a chiropractic~~] peer review procedures. The Board shall appoint local chiropractic peer review committees [~~committee. The committee shall be elected or appointed by the organization forming such peer review committee~~].

"(b) The Board shall appoint an executive chiropractic peer review committee to direct the activities of the local committees. The executive peer review committee is composed of six volunteer members. The executive peer review committee shall elect a chairman from its members.

"(c) To be eligible to serve on a chiropractic peer review committee, a member must participate in a board-approved program of peer review training. Any chiropractor who has completed a program of peer review training approved by the Board is eligible to serve on a chiropractic peer review committee. The Board shall appoint the members of the peer review committee from a list submitted by the local chiropractic association."

SECTION 3. Section 3, Chapter 286, Acts of the 64th Legislature, Regular Session, 1975 (Article 4512b(1), Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3. DUTIES. (a) Each local [~~The~~] chiropractic peer review committee shall[~~:~~

"[~~(1)~~] review and evaluate chiropractic treatment and services in disputes involving a chiropractor and a patient or a person obligated to pay a fee for chiropractic services or treatment [~~rendered;~~] and shall mediate

"[~~(2) act as arbitrator~~] in a dispute involving a chiropractor and a patient or person obligated to pay a fee for chiropractic services or treatment. Each local peer review committee shall report its findings and recommendations in such a dispute to the executive chiropractic peer review committee. A local peer review committee shall refer a dispute that is not resolved at the local level to the executive peer review committee.

"(b) The executive chiropractic peer review committee shall conduct hearings relating to disputes referred by a local chiropractic peer review committee and shall make its recommendations based solely upon evidence presented in such hearings.

"(c) To be eligible to serve on a chiropractic peer review committee, a member must participate in a board-approved program of peer review training. Any chiropractor who has completed a program of peer review training approved by the Board is eligible to serve on a chiropractic peer review committee. The Board shall appoint the members of the peer review committee from a list submitted by the local chiropractic association."

SECTION 4. Section 4, Chapter 286, Acts of the 64th Legislature, Regular Session, 1975 (Article 4512b(1), Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 4. LIABILITY OF COMMITTEE MEMBER IN CIVIL ACTION. Unless fraud, conspiracy, or malice can be shown, a member of a chiropractic peer

review committee is not liable in a civil action for a finding, evaluation, recommendation, or other action made or taken by him as a member of the committee, or by the committee; provided, however, the immunity granted in this article shall not be construed to limit the operation of federal or state antitrust laws as they may be applied to conduct of a peer review committee or the executive peer review committee that involves price fixing or any other unreasonable restraint of trade."

SECTION 5. Section 5, Chapter 286, Acts of the 64th Legislature, Regular Session, 1975 (Article 4512b(1), Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 5. CONFLICT OF INTEREST. A member of a chiropractic peer review committee may not participate in committee deliberations or other activities involving chiropractic services or treatment rendered or performed by him. No member of a local peer review committee or the executive peer review committee shall be a consultant to or an employee of any company or carrier of health care insurance."

SECTION 6. Section 17a, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949, as added (Article 4512b, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 17a. REQUESTS FOR INFORMATION FROM PEER REVIEW COMMITTEE. (a) The Texas Board of Chiropractic Examiners may request from a chiropractic peer review committee established under Chapter 286, Acts of the 64th Legislature, 1975 (Article 4512b(1), Vernon's Texas Civil Statutes), information pertaining to actions taken by the peer review committee.

"(b) The Board shall establish requirements for peer review training programs provided such requirements shall not discriminate against any licensed chiropractor in this state."

SECTION 7. This Act takes effect September 1, 1985.

SECTION 8. 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 was filed with the Secretary of the Senate.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 283**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 283 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **S.B. 283**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

HOUSE BILL 1172 ON SECOND READING

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

H.B. 1172, Relating to the authorizing of a public hearing to discuss the abatement of nuisances on premises in certain cities.

There was objection.

Senator Whitmire then moved to suspend the regular order of business and take up **H.B. 1172** for consideration at this time.

The motion prevailed by the following vote: Yeas 16, Nays 6.

Yeas: Barrientos, Brooks, Glasgow, Green, Harris, Kothmann, Krier, Leedom, McFarland, Montford, Parker, Parmer, Sims, Traeger, Truan, Uribe, Whitmire.

Nays: Blake, Brown, Henderson, Jones, Mauzy, Washington.

Absent: Caperton, Edwards, Farabee, Howard, Lyon, Santiesteban, Sarpalius, Sharp.

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

MOTION TO PLACE HOUSE BILL 1172 ON THIRD READING

Senator Whitmire moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1172** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 16, Nays 7. (Not receiving four-fifths vote of Members present)

Yeas: Barrientos, Brooks, Green, Harris, Kothmann, Krier, Leedom, McFarland, Parker, Parmer, Santiesteban, Sims, Traeger, Truan, Uribe, Whitmire.

Nays: Blake, Brown, Glasgow, Henderson, Jones, Mauzy, Washington.

Absent: Caperton, Edwards, Farabee, Howard, Lyon, Montford, Sarpalius, Sharp.

CONFERENCE COMMITTEE REPORT
SENATE BILL 1342

Senator Jones submitted the following Conference Committee Report:

Austin, Texas
May 26, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 1342** 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	RUDD
HOWARD	UHER
CAPERTON	COLBERT
HARRIS	DELCO
McFARLAND	KUEMPEL
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

Relating to the Texas College Student Loan Bonds Interest and Sinking Fund.

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

SECTION 1. Section 52.17, Education Code, is amended by adding the following Subsection (e):

(e) Amounts paid to the board by the federal Lender's Special Allowance program may be deposited in the Interest and Sinking Fund or used for the administration of student loan and grant programs and the Teacher Loan Program and Future Teacher Loan Program authorized under House Bill 72, 68th Legislature, 2nd Called Session, 1984, or other programs administered by the board as specified by the Legislature in the General Appropriations Act.

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 was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
SENATE BILL 1455

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 1455** 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.

FARABEE	HINOJOSA
MAUZY	BUSH
CAPERTON	T. SMITH
WASHINGTON	TEJEDA
TRAEGER	T. GARCIA
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to requirements in certain lawsuits in which certain present or former state employees are parties and to notice of intent to take default judgments against certain present or former state employees and to consequences of failure to perform the requirements; amending Chapter 659, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413a.1, Vernon's Texas Civil Statutes).

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

SECTION 1. Chapter 659, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413a.1, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. (a) Upon the filing of any petition [~~pleading~~] in a civil case in which the State of Texas or any agency in the executive or legislative department is named as a party or in which Chapter 309, Acts of the 64th Legislature, Regular Session, 1975, as amended (Article 6252-26, Vernon's Texas Civil Statutes), authorizes the attorney general to represent a party, a copy of the petition shall be mailed to the

Attorney General [~~of Texas shall be served promptly with a true copy of such pleading~~] at his office in Austin, Texas, by U.S. Postal Service, certified mail, return receipt requested.

"(b) The requirement in Subsection (a) of this section does not satisfy any other jurisdictional requirements with regard to service of process upon a state officer, board, commission, agency, or institution that is named as a party in a court proceeding.

"Section 2. Notice of intent to take a default judgment against the State of Texas, [~~or~~] any state agency, or a party in a civil case for which Chapter 309, Acts of the 64th Legislature, Regular Session, 1975, as amended (Article 6252-26, Vernon's Texas Civil Statutes), authorizes the representation of the Attorney General, shall be mailed to [~~served upon~~] the attorney general at his office in Austin, Texas, by U.S. Postal Service, certified mail, return receipt requested, at least 10 days before the entry of a [~~prior to the date of the proposed~~] default judgment.

"Section 3. Failure to perform the requirements of Section 1 or Section 2 shall result in [~~render~~] any default judgment against the State of Texas or any [~~such~~] state agencies or a party in a civil case represented by the attorney general pursuant to Chapter 309, Acts of the 64th Legislature, Regular Session, 1975, as amended (Article 6252-26, Vernon's Texas Civil Statutes), being set aside without costs [~~void~~]."

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 was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
SENATE BILL 105

Senator Caperton submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 105** 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.

CAPERTON	BUSH
FARABEE	ADKISSON
McFARLAND	DUTTON
BLAKE	PEREZ
TRAEGER	HURY
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the provision, administration, and financing of programs of retirement and death benefits for certain state-paid judges and to the assignment of persons

to sit as judicial officers; providing for a Judicial Retirement System of Texas Plan Two, changing the name of the present retirement system to Judicial Retirement System of Texas Plan One; providing penalties; amending Title 110B, Public Retirement Systems, Revised Statutes, by adding Subtitle H; by amending the following subsections and sections: Subsection (a), Section 12.002; Subdivision (3), Section 13.001; Subsection (a), Section 22.002; Subsection (b), Section 22.003; Subdivisions (3) and (5), Section 41.001; Subsection (a), Section 45.101; Sections 41.003, 42.001, 42.002, 42.103; Subsection (b), Section 52.106; by adding Section 45.103; and by repealing Sections 42.101, 42.102, 42.104, and 44.005; amending the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) by amending Subdivision (2), Subsection (a), Section 3, and Paragraph (A), Subdivision (5), Subsection (a), Section 3; amending Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes), by adding Sections 1a, 4a, 4b, and 4c and amending Sections 5a and 5b; amending Section 2, Chapter 376, Acts of the 62nd Legislature, Regular Session, 1971 (Article 200b, Vernon's Texas Civil Statutes); amending Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), by adding Subsection (e) and amending Subsection (c), Section 3; Subsection (b), Section 4; Subsection (b), Section 6; Subsections (a), (b), and (d), Section 9; amending Subsection (d), Section 3, Chapter 475, Acts of the 64th Legislature, 1975, as amended (Article 1933a, Vernon's Texas Civil Statutes); amending Section 4, Chapter 552, Acts of the 64th Legislature, 1975, as amended (Article 2338-1c, Vernon's Texas Civil Statutes); and amending Section 1, Chapter 217, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 6252-8a, Vernon's Texas Civil Statutes).

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

SECTION 1. Title 110B, Revised Statutes, is amended by adding Subtitle H to read as follows:

"SUBTITLE H. JUDICIAL RETIREMENT SYSTEM OF TEXAS PLAN TWO

"CHAPTER 71. GENERAL PROVISIONS

"SUBCHAPTER A. GENERAL PROVISIONS

Section 71.001. DEFINITIONS 3
Section 71.002. PURPOSE OF SUBTITLE 4
Section 71.003. RETIREMENT SYSTEM 4
Section 71.004. EXEMPTION FROM EXECUTION 4
Section 71.005. POWERS AND PRIVILEGES 5
Section 71.006. DIVERSION OF MONEY PROHIBITED 5

"[Sections 71.007-71.100 reserved for expansion]

"SUBCHAPTER B. PENAL PROVISIONS

Section 71.101. CONVERSION OF MONEY; FRAUD 5
Section 71.102. PENALTIES 6

"SUBTITLE H. JUDICIAL RETIREMENT SYSTEM OF TEXAS PLAN TWO

"CHAPTER 71. GENERAL PROVISIONS

"SUBCHAPTER A. GENERAL PROVISIONS

"Section 71.001. DEFINITIONS. In this subtitle:

"(1) 'Accumulated contributions' means the total of amounts in a member's individual account in the retirement system, including:

"(A) amounts deducted from the compensation of the member;

"(B) other member deposits required to be placed in the member's individual account; and

"(C) interest credited to amounts in the member's individual account.

"(2) 'Annuity' means an amount of money payable in monthly installments for life or for another period as provided by this subtitle.

"(3) 'Board of trustees' means the entity given responsibility under Section 75.001 of this subtitle for the administration of the retirement system.

"(4) 'Executive director' means the person appointed under Section 25.202 of this title.

"(5) 'Judicial officer' means a person who presides over a court or a commission to a court named in Section 72.001 of this subtitle and who has never been a member of the Judicial Retirement System of Texas or the Judicial Retirement System of Texas Plan One.

"(6) 'Medical board' means the entity designated under Section 75.202 of this subtitle.

"(7) 'Retiree' means a person who receives from the retirement system an annuity based on service that was credited to the person.

"(8) 'Retirement system' means the Judicial Retirement System of Texas Plan Two.

"(9) 'Service credit' means the amount of membership, military, and equivalent membership service ascribed by the retirement system to a person and for which the person has made required contributions.

"(10) 'Supreme court' means the Supreme Court of Texas.

"Section 71.002. PURPOSE OF SUBTITLE. The purpose of this subtitle is to establish a program of benefits for members, retirees, and other beneficiaries of the retirement system and to establish rules for the management and operation of the retirement system.

"Section 71.003. RETIREMENT SYSTEM. The retirement system is an entity of the state. The Judicial Retirement System of Texas Plan Two is the name in which all its business shall be transacted and all its property held.

"Section 71.004. EXEMPTION FROM EXECUTION. All annuity and other benefit payments from the retirement system, contribution refunds, and rights accrued or accruing under this subtitle to any person are exempt from garnishment, attachment, state and local taxation, levy, sale, and any other process and are unassignable.

"Section 71.005. POWERS AND PRIVILEGES. The retirement system has the powers, privileges, and immunities of a corporation, as well as the powers, privileges, and immunities conferred by this subtitle.

"Section 71.006. DIVERSION OF MONEY PROHIBITED. Except as provided by Subsection (b) of Section 75.101 and Subsection (c) of Section 75.305 of this subtitle, no part of the money contributed to the retirement system under Sections 75.102 or 75.104 of this subtitle and no part of the contribution described by Subdivision (2) of Subsection (b) of Section 75.103 of this subtitle may be used for or diverted to any purpose other than the exclusive benefit of members, their beneficiaries, and annuitants of the retirement system.

"[Sections 71.007-71.100 reserved for expansion]

"SUBCHAPTER B. PENAL PROVISIONS

"Section 71.101. CONVERSION OF MONEY; FRAUD. (a) A person commits an offense if the person knowingly or intentionally confiscates, misappropriates, or converts money representing deductions from a member's salary either before or after the money is received by the retirement system.

"(b) A person commits an offense if the person knowingly or intentionally makes a false statement or falsifies or permits to be falsified any record of the retirement system in an attempt to defraud the retirement system.

"(c) A member commits an offense if the member accepts as a salary money that the member knows should have been deducted as provided by this subtitle from the member's salary.

"Section 71.102. PENALTIES. (a) An offense under Subsection (a) or (c) of Section 71.101 of this subtitle is punishable in the manner provided by Section 31.03, Penal Code, for the punishment of the offenses included in that section.

"(b) An offense under Subsection (b) of Section 71.101 of this subtitle is punishable in the manner provided by Section 37.10, Penal Code, for the punishment of the offenses included in that section.

"CHAPTER 72. MEMBERSHIP

"SUBCHAPTER A. MEMBERSHIP

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"[Sections 72.004-72.100 reserved for expansion]

"SUBCHAPTER B. RESUMPTION OF JUDICIAL SERVICE BY RETIREE

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"CHAPTER 72. MEMBERSHIP

"SUBCHAPTER A. MEMBERSHIP

"Section 72.001. ELIGIBILITY FOR MEMBERSHIP. (a) Except as provided by Subsection (b) of this section, membership in the retirement system is limited to persons who have never been eligible for membership in the Judicial Retirement System of Texas or the Judicial Retirement System of Texas Plan One and who at any time on or after the effective date of this Act are judges, justices, or commissioners of:

"(1) the supreme court;

"(2) the court of criminal appeals;

"(3) a court of appeals;

"(4) a district court; or

"(5) a commission to a court specified in this subsection.

"(b) Except as provided by Section 72.101 of this subtitle, membership in the retirement system includes persons who are appointed under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), and who have never been members of the Judicial Retirement System of Texas or the Judicial Retirement System of Texas Plan One. A member appointed under that Act is a judicial officer for purposes of this subtitle.

"(c) Membership in the retirement system is mandatory for eligible persons.

"(d) Membership in the retirement system begins on the first day an eligible person holds a judicial office specified in Subsection (a) of this section.

"Section 72.002. TERMINATION OF MEMBERSHIP. A person's membership in the retirement system is terminated by:

"(1) death of the person;

"(2) retirement based on service credited in the retirement system;

"(3) withdrawal of all of the person's accumulated contributions; or

"(4) transfer of the person's accumulated contributions under Subsection (f) of Section 75.401 of this subtitle.

"Section 72.003. WITHDRAWAL OF CONTRIBUTIONS. (a) If a member resigns a judicial office or otherwise ceases to be a judicial officer, the member may withdraw all of the member's accumulated contributions in the retirement system.

"(b) A withdrawal of contributions cancels the person's service credit in the retirement system and terminates the person's rights to benefits based on the credit.

"(c) A member initiates a withdrawal of contributions by filing an application for a refund with the retirement system.

"(d) Deposits representing interest or membership fees that are required of a member to establish service credit under Section 73.102 or 73.103 of this subtitle are not refundable.

"[Sections 72.004-72.100 reserved for expansion]

"SUBCHAPTER B. RESUMPTION OF JUDICIAL SERVICE BY RETIREE

"Section 72.101. JUDICIAL ASSIGNMENT. A retiree who makes an election under Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), or who is appointed under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), may not rejoin or receive credit in the retirement system for the period of an appointment or for any service performed under assignment.

"Section 72.102. RESUMPTION OF FULL-TIME JUDICIAL SERVICE. (a) A retiree who resumes service as a judicial officer other than by appointment or assignment described in Section 72.101 of this subtitle may not rejoin or receive credit in the retirement system for the resumed service.

"(b) The retirement system shall suspend annuity payments to a retiree who resumes service described by this section. A suspension of payments begins on the date a retiree takes the oath of office and ends on a date when:

"(1) the retiree no longer holds the office; and

"(2) the retiree, or the retiree's beneficiary if the retiree has died, has applied to the retirement system for resumption of payments.

"(c) Time during which annuity payments are suspended as provided by this section does not reduce the number of months payments are to be made under an optional benefit plan providing for a specific amount of benefits for a guaranteed number of months after retirement.

"(d) Before a retiree takes the oath of office for a position as a judicial officer other than under appointment or assignment described by Section 72.101 of this subtitle, the retiree shall notify the retirement system in writing of the resumption of office and the projected dates of service.

"CHAPTER 73. CREDITABLE SERVICE

"SUBCHAPTER A. GENERAL PROVISIONS

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"[Sections 73.002-73.100 reserved for expansion]

"SUBCHAPTER B. ESTABLISHMENT OF SERVICE

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"CHAPTER 73. CREDITABLE SERVICE

"SUBCHAPTER A. GENERAL PROVISIONS

"Section 73.001. TYPES OF CREDITABLE SERVICE. The types of service creditable in the retirement system are:

"(1) membership service;

"(2) military service; and

"(3) equivalent membership service.

"[Sections 73.002-73.100 reserved for expansion]

"SUBCHAPTER B. ESTABLISHMENT OF SERVICE

"Section 73.101. CURRENT SERVICE. Membership service is credited in the retirement system for each month in which a member holds a judicial office and for which the member makes the required contribution.

"Section 73.102. SERVICE CREDIT PREVIOUSLY CANCELED. If a person who has withdrawn contributions to the retirement system and canceled service credit under Section 72.003 of this subtitle subsequently rejoins the retirement system, the member may not become eligible for retirement benefits from the retirement system unless the person redeposits with the system the amount

withdrawn, plus all membership fees due, plus interest computed on the basis of the state fiscal year at an annual rate of five percent from the date of withdrawal to the date of redeposit. Payment under this section reestablishes the service credit canceled by the refund.

"Section 73.103. MILITARY SERVICE. (a) An eligible member may establish service credit in the retirement system for military service performed that is creditable in the retirement system.

"(b) A member eligible to establish military service credit is one who:

"(1) currently contributes to the retirement system;

"(2) has at least eight years of service credit in the retirement system;

"(3) does not receive and is not eligible to receive federal retirement payments based on 20 years or more of active federal military duty or its equivalent; and

"(4) has been released from military duty under conditions not dishonorable.

"(c) Military service creditable in the retirement system is active duty federal military service performed during a time that the United States is or was engaged in armed conflict. The board of trustees by rule shall determine the periods recognized for purposes of this subtitle as times of armed conflict.

"(d) A member may not establish more than 48 months of service credit in the retirement system for military service.

"(e) A member may establish credit under this section by depositing with the retirement system in a lump sum a contribution computed for each month of military service claimed at the rate of six percent of the member's current monthly state compensation, plus, if the member does not establish the credit before the first anniversary of the date of first eligibility, interest computed on the basis of the state fiscal year at an annual rate of 10 percent from the date of first eligibility to the date of deposit.

"(f) The state shall contribute for each month of military service established under this section an amount computed on the basis of the member's current monthly state compensation at the rate of state contribution, as provided by Subsection (a) of Section 75.103 of this subtitle, for the fiscal year in which the credit is established.

"(g) The board of trustees may require members applying for credit under this section to submit any information the board considers necessary to enable it to determine eligibility for credit, amount of service, or amounts of required contributions.

"(h) The retirement system shall use military service credit in computing death benefits and in determining eligibility to select an optional death benefit plan.

"(i) The retirement system shall use military service credit in computing service or disability retirement benefits only if the member has, without military service credit, enough service credit to entitle the member to retire for service or disability, as applicable.

"Section 73.104. SERVICE ON DOMESTIC RELATIONS OR SPECIAL JUVENILE COURT. (a) An eligible member may establish equivalent membership service credit in the retirement system for service performed as judge of a domestic relations or special juvenile court.

"(b) A member eligible to establish credit under this section is one who serves or served as judge:

"(1) of a domestic relations or special juvenile court on the date that the court is or was abolished by the Family District Court Act (Article 1926a, Vernon's Texas Civil Statutes); or

"(2) of a district or appellate court on the date that a domestic relations or special juvenile court is or was abolished by the Family District Court

Act (Article 1926a, Vernon's Texas Civil Statutes), but formerly served as judge of a court abolished by that Act.

"(c) A member may establish credit under this section by depositing with the retirement system a contribution in an amount, except as provided by Subsection (f) of this section, computed at the rate of six percent of the state salary of a district judge for the member's full tenure on the abolished court, plus interest computed at the rate of interest credited to a person's account in the Texas County and District Retirement System for the period of the service or, for service performed before January 1, 1968, at the rate of six percent a calendar year.

"(d) A member who establishes credit under this section forfeits all rights to benefits based on the claimed service in the Texas County and District Retirement System, except rights to benefits based on the amount paid by the county for the service that exceeds the amount of state salary that would have been paid for the service.

"(e) The Texas County and District Retirement System shall transfer to the retirement system the amount credited to the member's account, whether contributed by the member or the member's employer, plus accumulated interest, except any amount representing contributions or interest on salary that exceeds the state salary that would have been paid for the service.

"(f) The retirement system shall credit the amount transferred by the Texas County and District Retirement System against the member's required payment under this section. If the total of the amount transferred and the amount paid by the member exceeds the amount required by this section, the retirement system shall leave the excess in the retirement system trust fund.

"(g) The amount of contributions credited in the retirement system to a member who establishes credit under this section is the amount that the member would have contributed to the retirement system, the Judicial Retirement System of Texas, or the Judicial Retirement System of Texas Plan One as a district judge at the time the service was performed.

"CHAPTER 74. BENEFITS

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"CHAPTER 74. BENEFITS

"SUBCHAPTER A. GENERAL PROVISIONS

"Section 74.001. TYPES OF BENEFITS. The types of benefits payable by the retirement system are:

"(1) service retirement benefits;

"(2) disability retirement benefits; and

"(3) death benefits.

"Section 74.002. APPLICATION FOR RETIREMENT. (a) A member may apply for service or disability retirement by filing an application for retirement with the board of trustees.

"(b) An application for a service retirement annuity may not be made:

"(1) after the date the member wishes to retire; or

"(2) more than 90 days before the date the member wishes to retire.

"Section 74.003. INELIGIBILITY FOR BENEFITS. An annuity that is based on service of a member who is removed from judicial office by impeachment, or otherwise for official misconduct, may not be paid under this subtitle.

"[Sections 74.004-74.100 reserved for expansion]

"SUBCHAPTER B. SERVICE RETIREMENT BENEFITS

"Section 74.101. ELIGIBILITY FOR SERVICE RETIREMENT ANNUITY. (a) A member is eligible to retire and receive a service retirement annuity if the member:

"(1) is at least 65 years old, currently holds a judicial office, and has at least 10 years of service credited in the retirement system, the most recently performed of which was for a continuous period of at least one year;

"(2) is at least 65 years old and has at least 12 years of service, continuous or otherwise, credited in the retirement system, regardless of whether the member currently holds a judicial office; or

"(3) has at least 25 years of service credited in the retirement system, the most recently performed of which was for a continuous period of at least 10 years, regardless of whether the member currently holds a judicial office.

"(b) A member who meets service requirements provided by Subdivision (1) or (2) of Subsection (a) of this section is eligible to retire and receive a service retirement annuity actuarially reduced as provided by Subsection (c) of Section 74.102 of this subtitle from the standard service retirement annuity, if the member is at least 60 years old.

"(c) A member's resignation from a judicial office before applying for an annuity does not make the member ineligible for the annuity unless the member applies for an annuity under Subdivision (1) of Subsection (a) of this section.

"Section 74.102. SERVICE RETIREMENT ANNUITY. (a) Except as provided by Subsections (b) and (c) of this section, the standard service retirement annuity is an amount computed on the basis of the member's average monthly compensation for the 36 highest months of compensation during the last 60 months of service, multiplied by the sum of:

"(1) one-twelfth of three percent for each month of service that is credited in the retirement system and that is performed before the month following the month that includes the member's 70th birthday; plus

"(2) one-twelfth of two percent for each month of service that is credited in the retirement system and that is performed after the month that includes the member's 70th birthday.

"(b) The standard service retirement annuity may not be more than 60 percent of the average monthly compensation computed under Subsection (a) of this section.

"(c) The standard service retirement annuity of a person qualifying for retirement under Subsection (b) of Section 74.101 of this subtitle is an amount computed as provided by Subsection (a) of this section, reduced by one-third of one percent for each whole or partial calendar month that occurs during the period from the date of retirement to the date of the retiree's 65th birthday, including the months that contain the dates of retirement and birthday.

"Section 74.103. OPTIONAL SERVICE RETIREMENT ANNUITY. (a) Instead of a service retirement annuity payable under Section 74.102 of this subtitle, a retiring member may elect to receive an optional service retirement annuity provided by the board of trustees or one of the following optional service retirement annuities, actuarially reduced to an actuarially equivalent value and consisting of:

"(1) an annuity payable during the retiring member's life and continuing after death in the same amount, throughout the life of one person designated by the retiring member before retirement;

"(2) an annuity payable during the retiring member's life and continuing after death in an amount equal to one-half of the amount payable during the retiring member's life, throughout the life of one person designated by the retiring member before retirement;

"(3) an annuity payable for the greater of the rest of the retiring member's life or 60 months; or

"(4) an annuity payable for the greater of the rest of the retiring member's life or 120 months.

"(b) An annuity selected under Subdivision (3) or (4) of Subsection (a) of this section that is payable after the retiring member's death shall be paid to one or more persons designated by the retiring member before or after retirement or, if no person has been designated or all designees die before all payments are made, to the retiree's estate.

"(c) A person may apply for an optional service retirement annuity by filing an application for the annuity with the retirement system before the date of the person's retirement.

"(d) The computation of an optional service retirement annuity payable throughout the life of a named individual must include the age of that individual.

"(e) An optional service retirement annuity may not provide that more than 50 percent of the value of the annuity, as determined at the time of retirement, be used to provide a benefit to a person other than the person on whose service the annuity is based.

"Section 74.104. LIMITATION ON SERVICE RETIREMENT ANNUITY. (a) In this section, 'annual benefit' means a benefit payable annually in the form of a straight life annuity, without taking into account the value of any ancillary benefit or any portion of the benefit derived from member contributions.

"(b) Except as provided by Subsections (c), (d), (e), (g), and (i) of this section, the annual benefit payable under Section 74.102 or 74.103 of this subtitle to a retiring member may not exceed the lesser of:

"(1) $90,000; or

"(2) 100 percent of the member's average annual state compensation, computed by taking into account only the member's state compensation for the consecutive 36-month period during which the member was contributing and had the greatest aggregate compensation from the state as a judge, justice, or commissioner of a court described in Section 72.001 of this subtitle.

"(c) If payment of a benefit under Section 74.102 or 74.103 of this subtitle begins when the retiring member is at least 55 years old but less than 62 years old, the limitation in Subdivision (1) of Subsection (b) of this section is the greater of:

"(1) $75,000; or

"(2) the actuarial equivalent of $90,000, beginning at age 62.

"(d) If payment of a benefit under Section 74.102 or 74.103 of this subtitle begins when the retiring member is less than 55 years old, the limitation in Subdivision (1) of Subsection (b) of this section is the greater of:

"(1) the actuarial equivalent of $75,000, beginning at age 55; or

"(2) the actuarial equivalent of $90,000, beginning at age 62.

"(e) If payment of a benefit under Section 74.102 or 74.103 of this subtitle begins when the retiring member is at least 66 years old, the limitation in Subdivision (1) of Subsection (b) of this section is the actuarial equivalent of $90,000, beginning at age 65.

"(f) The interest rate assumption used to determine actuarial equivalence under Subsection (c) or (d) of this section is the greater of five percent or the rate used to determine actuarial equivalence for other purposes of the retirement system, and the interest rate assumption used to determine actuarial equivalence under Subsection (e) of this section is the lesser of five percent or the rate used to determine actuarial equivalence for other purposes of the retirement system.

"(g) The board of trustees by rule shall adjust the dollar limitations included in Subdivision (1) of Subsection (b) and Subsections (c), (d), and (e) of this section to conform to adjustments made by the federal Commissioner of Internal Revenue to the dollar limitations under Section 415, federal Internal Revenue Code.

"(h) An increase in a benefit payable under Section 74.102 or 74.103 of this subtitle that takes effect after the date payment of the benefit has begun may not result in payment of an annual benefit that exceeds the member's average annual state compensation, as computed under Subdivision (2) of Subsection (b) of this section, multiplied by a fraction, the numerator of which is the dollar limitation under Section 415(b)(1)(A), federal Internal Revenue Code, as adjusted under Section 415(d) of that code, and the denominator of which is $90,000.

"(i) If a benefit becomes payable to a retiring member who has less than 10 years of service credit in the retirement system, the retirement system shall apply to that benefit, instead of the limitations included in Subsections (b), (c), (d), and (e) of this section, limitations computed by reducing the amounts of the limitations in Subsections (b), (c), (d), and (e) by a fraction, the numerator of which is the number of years of the person's service credit and the denominator of which is 10.

"[Sections 74.105-74.200 reserved for expansion]

"SUBCHAPTER C. DISABILITY RETIREMENT BENEFITS

"Section 74.201. ELIGIBILITY FOR DISABILITY RETIREMENT ANNUITY. (a) A member is eligible, regardless of age, to retire from regular active service for disability and receive a disability retirement annuity if the member has at least seven years of service credit in the retirement system.

"(b) A member otherwise eligible may not receive a disability retirement annuity unless the chief justice of the supreme court and the medical board certify that the member is mentally or physically incapacitated for the further performance of regular judicial duties.

"(c) A disability retirement annuity may be denied on the ground that a claimed physical incapacity is caused by or results from an intemperate use of alcohol or narcotic drugs.

"Section 74.202. DISABILITY REPORTS. (a) A member who applies for retirement because of physical incapacity shall file with the retirement system and the chief justice of the supreme court written reports by two physicians licensed to practice medicine in this state, fully reporting the claimed physical incapacity.

"(b) The retirement system shall refer an application for disability retirement to the medical board for its recommendations. The medical board may require an applicant to submit any additional information it considers necessary to enable it to make its recommendations.

"(c) The chief justice of the supreme court may direct the retirement system to employ a physician under Section 75.203 of this subtitle or may direct the medical board to require additional information under Subsection (b) of this section.

"Section 74.203. DISABILITY RETIREMENT ANNUITY. (a) Except as provided by Subsection (b) or (c) of this section, a disability retirement annuity is an amount computed as provided by Section 74.102 of this subtitle.

"(b) The amount of a disability retirement annuity is not reducible because of the age of the retiring member.

"(c) Instead of a disability retirement annuity computed as provided by Section 74.102 of this subtitle, a retiring member may elect to receive an optional disability retirement annuity payable as provided by Section 74.103 of this subtitle.

"(d) A disability retirement annuity is payable for the duration of the retiree's disability. If a retiree who has selected an optional disability retirement annuity dies while receiving the annuity, the annuity is payable throughout the life of the retiree's designated beneficiary or for a guaranteed period after the date of retirement, depending on the option selected.

"[Sections 74.204-74.300 reserved for expansion]

"SUBCHAPTER D. DEATH BENEFITS

"Section 74.301. SELECTION OF DEATH BENEFIT PLAN BY MEMBER. (a) An eligible member may select a death benefit plan for the payment of a death benefit annuity, to be paid if the member dies before retirement. Except as provided by Subsections (d) and (e) of this section, a death benefit annuity is an amount computed, in the manner provided under Subsections (a) and (b) of Section 74.102 of this subtitle for computation of a standard service retirement annuity, as if the member had retired on the date of death and payable, beginning on the day after the date of the member's death, in one of the following ways:

"(1) throughout the life of one person designated by the member; or

"(2) to one or more persons designated by the member, for a period of 120 months.

"(b) A member eligible to select a death benefit plan is one who:

"(1) is a contributing member and has at least 10 years of service credit in the retirement system;

"(2) is a noncontributing member and has at least 12 years of service credit in the retirement system; or

"(3) has a total of at least 20 years of service credit in retirement systems administered by the board of trustees.

"(c) If a member who has qualified under Subdivision (1) of Subsection (b) of this section and has selected a death benefit plan ceases to be a contributing member before death and does not qualify under Subdivision (2) or (3) of Subsection (b) of this section, the selection of a plan is voided.

"(d) The retirement system shall, under tables adopted by the board of trustees as provided by Section 75.005 of this subtitle, actuarially reduce the amount of a death benefit annuity payable under this section for the difference between the member's age on the date of death and age 65, if the member dies before attaining that age.

"(e) The computation of a death benefit annuity selected under Subdivision (1) of Subsection (a) of this section must include the age of the designated recipient.

"(f) A member may select a death benefit plan by filing an application for a plan with the board of trustees on a form prescribed by the board. After selection, a death benefit plan takes effect at death unless the member amends the plan, selects a retirement annuity at the time of retirement, or has chosen a plan that cannot take effect or unless the selection is voided under Subsection (c) of this section.

"Section 74.302. SELECTION OF DEATH BENEFIT PLAN BY SURVIVOR OF MEMBER. If a member eligible to select a death benefit plan

under Section 74.301 of this subtitle dies without having made a selection or if a plan selected cannot be made effective, the member's surviving spouse may select a plan in the same manner as if the member had made the selection. If there is no surviving spouse, the personal representative of the decedent's estate may make the selection.

"Section 74.303. MEMBER DEATH BENEFITS GENERALLY. (a) Except as provided by Subsection (c) of this section, if a contributing member dies, a lump-sum death benefit is payable from the retirement system in an amount computed at the rate of five percent of the amount in the member's individual account at the time of death times the number of full years of service credit the member had at the time of death.

"(b) The benefit provided by this section is payable to a person designated by the member in a signed document filed with the retirement system. If a member does not designate a beneficiary or if the beneficiary does not survive the member, the benefit is payable to the member's estate.

"(c) A death benefit may not be paid under this section if, at the time of death, the member was eligible to select a death benefit annuity under Section 74.301 of this subtitle.

"Section 74.304. RETURN OF CONTRIBUTIONS. (a) Except as provided by Subsection (c) of this section, if a member dies before retirement, the amount of the member's accumulated contributions is payable as a lump-sum death benefit.

"(b) The benefit provided by this section is payable to a person designated by the member in a signed document filed with the board of trustees. If a member does not designate a beneficiary, the benefit is payable to the member's estate.

"(c) A death benefit may not be paid under this section if, at the time of death, the member was eligible to select a death benefit annuity under Section 74.301 of this subtitle.

"Section 74.305. RETURN OF EXCESS CONTRIBUTIONS. (a) Except as provided by Subsection (c) of this section, if a person dies after retirement, a lump-sum death benefit is payable in an amount, if any, by which the retiree's contributions to the retirement system on the date of retirement exceed the amount of annuity payments made before the retiree's death.

"(b) The benefit provided by this section is payable to the retiree's designated beneficiary. If a retiree dies without having designated a beneficiary, the benefit is payable to the person entitled to distribution of the decedent's estate if that person or the personal representative of the decedent's estate claims the benefit before the second anniversary of the decedent's death.

"(c) A death benefit may not be paid under this section if an optional retirement annuity has been selected as provided by Section 74.103 or Subsection (c) of Section 74.203 of this subtitle.

"[Sections 74.306-74.400 reserved for expansion]

"SUBCHAPTER E. INCREASES IN BENEFITS

"Section 74.401. ANNUITY INCREASE AFTER DEATH OR RETIREMENT. (a) Except as provided by Subsections (b) and (e) of this section, on the first day of each fiscal year, the retirement system shall increase the amounts of annuities that are payable by the system to a retiree, to the survivor of a retiree, or to the survivor of a deceased member.

"(b) The retirement system may not increase under this section the amount of an annuity unless the retirement or death on which the annuity is based occurred before the first day of the preceding fiscal year.

"(c) The legislature may appropriate money from the General Revenue Fund to pay the costs of increasing the amounts of annuities under this section. On the first day of each fiscal year, the state comptroller of public accounts shall transfer to the retirement system any money appropriated for the fiscal year for the purpose of this section.

"(d) If the amount of money appropriated for a fiscal year is insufficient to finance the rate of increase in annuities specified in the Act making the appropriation or if the Act fails to specify a rate of increase, the board of trustees shall set the rate as the rate that the amount of money appropriated will finance for the duration of the annuities payable to those persons entitled to receive an increase in annuities under this section.

"(e) If an appropriation is not made for a fiscal year for the purpose of this section, the retirement system may not increase under this section the amount of annuities for that year.

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"CHAPTER 75. ADMINISTRATION

"SUBCHAPTER A. POWERS AND DUTIES

"Section 75.001. GENERAL ADMINISTRATION. (a) The board of trustees of the Employees Retirement System of Texas, as provided by Subchapter A of Chapter 25 of this title, is responsible for the general administration and operation of the retirement system.

"(b) The executive director shall recommend to the board of trustees actuarial and other services required to transact the business of the retirement system.

"(c) Annually, the executive director shall prepare an itemized budget showing the amount required to pay the retirement system's expenses for the following fiscal year and shall submit the budget to the board of trustees for review and adoption.

"Section 75.002. RULEMAKING. Subject to the limitations of this subtitle, the board of trustees may adopt rules and provide for forms it considers necessary for the administration of the retirement system.

"Section 75.003. ADMINISTERING SYSTEM ASSETS. (a) All assets of the retirement system shall be credited to the trust fund provided by Section 75.305 of this subtitle. The board of trustees shall administer all assets of the retirement system. The board is the trustee of the system's assets.

"(b) The board of trustees may acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any security, evidence of debt, or other investment in which the retirement system's assets may be invested.

"Section 75.004. DESIGNATION OF AUTHORITY TO SIGN VOUCHERS. The board of trustees shall file with the state comptroller of public accounts a duly attested copy of a board resolution that designates the authorized representatives, as provided by this chapter, who have authority to sign vouchers for payment from the funds administered by the board of trustees.

"Section 75.005. ADOPTING TABLES AND RATES. The board of trustees by rule shall adopt interest rates and mortality, service, and other tables the board considers necessary for the retirement system after considering the results of the actuary's investigation of the mortality, service, and compensation experience of the system's members and beneficiaries.

"Section 75.006. RECORDS OF BOARD OF TRUSTEES. The board shall keep a record of all of its proceedings. Records of the board are open to public inspection.

"Section 75.007. REPORT. Annually, the retirement system shall publish a report containing the following information:

"(1) the retirement system's fiscal transactions of the preceding fiscal year;

"(2) the amount of the system's accumulated cash and securities; and

"(3) the balance sheet showing the financial condition of the system for the preceding fiscal year.

"Section 75.008. CORRECTION OF ERRORS. If an error in the records of the retirement system results in a person receiving more or less money than the person is entitled to receive under this subtitle, the retirement system shall correct the error and so far as practicable shall adjust future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid.

"Section 75.009. CHANGE BY GOVERNOR'S EXECUTIVE ORDER. (a) Except as provided by Subsection (b) of this section, the governor by executive order

may alter or suspend a provision of this subtitle or impose a new provision applicable to the retirement system on a subject included in this subtitle if the governor finds that the change is necessary to protect tax qualification of the retirement system under Section 401(a), federal Internal Revenue Code.

"(b) The governor may not take any action under this section that makes necessary additional contributions to the retirement system by the state or members of the system.

"(c) The governor's findings, including a brief description of the reason for the findings, must be included in the text of an order issued under this section.

"(d) An executive order issued under this section expires on the September 1 that follows the next regular session of the legislature that begins after the date the order is issued, unless an earlier date is specified in the order or unless the governor rescinds the order before that time.

"[Sections 75.010-75.100 reserved for expansion]

"SUBCHAPTER B. COLLECTION OF MEMBERSHIP FEES AND CONTRIBUTIONS; APPROPRIATIONS

"Section 75.101. COLLECTION OF MEMBERSHIP FEES. (a) Each member annually shall pay a membership fee of $10. A contributing member shall pay the fee with the member's first contribution to the retirement system in each fiscal year in the manner provided by Section 75.102 or 75.104 of this subtitle for payment of the member's contributions to the retirement system.

"(b) If the membership fee is not paid with the member's first contribution of the year to the retirement system, the board of trustees may deduct the amount of the fee from that contribution or from any benefit to which the member becomes entitled.

"(c) If the legislature appropriates, on behalf of each contributing member for any fiscal year, a membership fee in an amount equal to or greater than the membership fee required by Subsection (a) of this section, the members are not required to pay the membership fee for that year.

"(d) The retirement system shall deposit membership fees in an account to be used for defraying costs of administering the retirement system.

"Section 75.102. COLLECTION OF MEMBER CONTRIBUTIONS. (a) Each payroll period, a judicial officer who is a member of the retirement system is required to contribute six percent of the officer's state compensation for the period to the retirement system.

"(b) The payroll officer responsible for paying the state compensation of a member of the retirement system required by this section to make a contribution shall:

"(1) make the required deductions from the member's state compensation;

"(2) certify to the board of trustees the amounts deducted from the member's state compensation;

"(3) transmit monthly, or at the time designated by the board of trustees, a certified copy of the payroll or report to the retirement system; and

"(4) pay the deducted amounts to the retirement system for deposit in the trust fund of the system.

"(c) To facilitate the making of deductions, the board of trustees may modify a member's required deductions by an amount that does not exceed one-tenth of one percent of the annual compensation on which the deductions are made.

"(d) The retirement system shall record all receipts of member contributions and shall credit the receipts to the appropriate account.

"(e) The deductions required by this section shall be made even if the member's state compensation is reduced below the amount equal to the minimum compensation provided by law.

"(f) By becoming a member of the retirement system, a member consents to the deductions required by this section. The payment of state compensation less those deductions is a complete release of all claims, except benefits provided by this subtitle, for services rendered by the member during the payment period.

"Section 75.103. COLLECTION OF STATE CONTRIBUTIONS. (a) During each fiscal year, the state shall contribute to the retirement system an amount equal to a percentage of the aggregate state compensation of all contributing members of the retirement system for that year, as provided by Subdivision (1) of Subsection (b) of this section.

"(b) Before November 2 of each even-numbered year, the retirement system shall certify to the legislative budget board and to the budget division of the governor's office for review:

"(1) an actuarial valuation of the retirement system to determine the percentage of annual payroll required from the state to finance fully the retirement system without any unfunded liability;

"(2) an estimate of the amount necessary to pay the state's contribution under Subdivision (1) of this subsection for the following biennium; and

"(3) as a separate item, an estimate of the amount, in addition to anticipated receipts from membership fees, required to administer the retirement system for the following biennium.

"(c) The amount certified under Subdivision 2 of Subsection (b) of this section shall be included in the budget of the state that the governor submits to the legislature. The legislature may appropriate money to pay administrative costs of the retirement system.

"(d) Before September 1 of each year, the retirement system shall certify to the state comptroller of public accounts and to the State Treasurer an estimate of the amount necessary to pay the state's contribution under Subsection (a) of this section for the following fiscal year.

"(e) All money allocated and appropriated by the state to the retirement system for benefits provided by the retirement system shall be paid, based on the annual estimate of the retirement system, in monthly installments to the retirement system. The money required for state contributions shall be from money appropriated to pay the compensation of the member for whose benefit the contribution or fee is paid. If the total of the estimated required payments is not equal to the total of the actual payments required for a fiscal year, the retirement system shall certify to the state comptroller of public accounts and the State Treasurer at the end of that year the amount required for necessary adjustments, and the State Treasurer shall make the required adjustments.

"Section 75.104. COLLECTION OF CONTRIBUTIONS FOR SENIOR DISTRICT COURT JUDGES. Contributions for members appointed under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), are as provided by Subsections (d) and (f) of Section 9 of that Act.

"[Sections 75.105-75.200 reserved for expansion]

"SUBCHAPTER C. OFFICERS AND EMPLOYEES OF BOARD OF TRUSTEES

"Section 75.201. LEGAL ADVISER. The attorney general of the state is the legal adviser of the board of trustees. The attorney general shall represent the board in all litigation.

"Section 75.202. MEDICAL BOARD. (a) The board of trustees shall designate a medical board composed of three physicians.

"(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in the state and be of good standing in the

medical profession. A physician who is eligible to participate in the retirement system may not be a member of the medical board.

"(c) The medical board shall report in writing to the chief justice of the supreme court its conclusions and recommendations on all matters referred to it.

"Section 75.203. OTHER PHYSICIANS. The board of trustees may employ physicians in addition to the medical board to report on special cases.

"Section 75.204. ACTUARY. (a) The board of trustees shall designate an actuary.

"(b) An actuary employed under this section must be a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the federal Employee Retirement Income Security Act of 1974.

"(c) At least once every five years the actuary, under the direction of the board of trustees, shall make an actuarial investigation of the mortality, service, and compensation experience of the members and beneficiaries of the retirement system.

"(d) On the basis of tables adopted by the board of trustees under Section 75.005 of this subtitle, the actuary shall make a valuation of the assets and liabilities of the retirement system's funds annually.

"(e) The actuary shall perform such other duties as are required by the board of trustees.

"Section 75.205. FINANCIAL AND INVESTMENT SERVICES. The board of trustees may employ persons, either as full-time employees or as independent contractors, to assist the board in investing assets of the retirement system, in evaluating investments or investment services, or in otherwise managing financial operations of the retirement system.

"Section 75.206. STATE TREASURER. (a) The State Treasurer is the custodian of the securities, bonds, and funds of the retirement system.

"(b) The State Treasurer shall pay money from the trust fund of the retirement system on warrants drawn by the state comptroller of public accounts supported on vouchers signed by the executive director and the chairman of the board of trustees or their authorized representatives.

"(c) The State Treasurer annually shall furnish to the board of trustees a sworn statement of the amount of the retirement system's assets in the treasurer's custody.

"Section 75.207. COMPENSATION OF EMPLOYEES; PAYMENT OF EXPENSES. (a) The board of trustees shall compensate all persons whom it employs and shall pay all expenses necessary to operate the retirement system at rates and in amounts approved by the board. Those rates and amounts may not exceed those paid for the same or similar service for the state.

"(b) The board of trustees shall pay compensation and expenses required by Subsection (a) of this section from an appropriate account of the retirement system.

"Section 75.208. SURETY BONDS. (a) The State Treasurer shall give a surety bond in the amount of $50,000.

"(b) The executive director shall give a surety bond in an amount, determined by the board of trustees, of not less than $25,000.

"(c) The board of trustees may require any trustee or employee of the board to give a surety bond in an amount determined by the board. The bond is conditioned on the bonded person's faithful execution of the duties of the person's office.

"(d) All surety bonds must be:

"(1) made with a commercially sound and solvent surety company that is authorized to do business in the state;

"(2) made payable to the board of trustees; and

"(3) approved by the board of trustees and the attorney general of the state.

"(e) The board of trustees shall pay from an appropriate account all expenses for the execution of a bond under this section, including premiums.

"Section 75.209. INTEREST IN INVESTMENT PROFITS PROHIBITED. Except for an interest in retirement funds as a member of the retirement system, a trustee or employee of the board of trustees may not have a direct or indirect interest in the gains or profits of any investment made by the board and may not receive any pay or emolument for services other than his or her designated compensation and authorized expenses.

"[Sections 75.210-75.300 reserved for expansion]

"SUBCHAPTER D. MANAGEMENT OF ASSETS

"Section 75.301. INVESTMENT OF ASSETS. (a) Except as provided by Section 75.302 of this subtitle, the board of trustees may invest and reinvest the retirement system's assets, under the standard of care provided by Section 75.303 of this subtitle, in the following:

"(1) bonds, notes, or other evidences of indebtedness, whether general or specific obligations, whose principal and interest are guaranteed by the United States, an agency of the United States, the state, or any political subdivision of the state;

"(2) equipment and other property that is used in administering the retirement system;

"(3) corporate bonds, corporate notes, and other evidences of indebtedness of a corporation if the corporation was created or exists under the laws of a state or the United States; and

"(4) common and preferred stocks of companies incorporated within the United States that have paid cash dividends for 10 consecutive years immediately before the date of purchase and, unless the stocks are bank or insurance stocks, that are listed on an exchange registered with the Securities and Exchange Commission or its successor.

"(b) The board of trustees shall:

"(1) invest the assets of the retirement system as a single fund without distinction as to their source; and

"(2) hold securities purchased with the assets collectively for the proportionate benefit of all accounts of the system established under Subsection (b) of Section 75.305 of this subtitle.

"Section 75.302. RESTRICTIONS ON INVESTMENTS. (a) The board of trustees may not invest in the stock of one corporation more than one percent of the book value of the total assets of the retirement system.

"(b) The retirement system may not own more than five percent of the voting stock of one corporation.

"(c) At any particular time, 25 percent or more of the book value of the assets of the retirement system must be invested in government securities described by Subdivision (1) of Subsection (a) of Section 75.301 of this subtitle.

"Section 75.303. DUTY OF CARE. In making investments for the retirement system, the board of trustees shall exercise the judgment and care, under the circumstances prevailing at the time of the investment, that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in speculation but when making a permanent disposition of their funds, considering the probable income from the disposition and the probable safety of their capital.

"Section 75.304. CASH ON HAND. (a) The board of trustees shall keep a sufficient amount of cash on hand to make payments as they become due each year under the retirement system.

"(b) The amount of cash on hand may not exceed 10 percent of the total amount in the funds of the retirement system on deposit with the State Treasurer.

"Section 75.305. ESTABLISHMENT OF FUND AND ACCOUNTS. (a) A trust fund for the Judicial Retirement System of Texas Plan Two is established in the State Treasury.

"(b) The board of trustees may establish such accounts for money in the trust fund of the retirement system as it considers necessary, in addition to members' individual accounts, for the administration of the system. All assets of the retirement system are creditable, according to the purpose for which they are held, to an appropriate account.

"(c) The retirement system may transfer assets from one account to another, except from one member's individual account to another's, to pay benefits and administrative expenses as needed.

"Section 75.306. INTEREST RATE. (a) Interest on money in a member's individual account in the retirement system is earned monthly and is computed at the rate of five percent a year on the mean balance of the member's account for the fiscal year.

"(b) Unless an account is closed before the last day of the fiscal year, interest is computed for the fiscal year and is credited to the member's account as of the last day of the fiscal year.

"(c) If an account is closed before the last day of the fiscal year, interest is computed for the following period:

"(1) if the account is closed because of death, from the first day of the fiscal year through the last day of the month that preceded the month in which the member's death occurred;

"(2) if the account is closed by withdrawal of accumulated contributions, from the first day of the fiscal year through the last day of the month that precedes the month in which the withdrawal request is validated by the retirement system; or

"(3) if the account is closed because of retirement, from the first day of the fiscal year through the effective date of retirement.

"[Sections 75.307-75.400 reserved for expansion]

"SUBCHAPTER E. MISCELLANEOUS ADMINISTRATIVE PROCEDURES

"Section 75.401. TRANSFER OF ACCUMULATED CONTRIBUTIONS IN CERTAIN CIRCUMSTANCES. (a) Except as provided by Subsection (b) of this section, if a valid application for payment based on money or credit in a member's individual account in the retirement system is not filed with the retirement system before the expiration of five years after the last day of the most recent month of service for which the member has credit in the retirement system, the retirement system shall mail a notice to the member at the member's most recent address as shown on system records. If no address is available or if the notice is returned unclaimed, the retirement system shall cause a notice to be published in a newspaper of general circulation in the state.

"(b) This section does not apply to an account of a member who has enough service credit in the retirement system to enable the member to retire at an attained age.

"(c) A notice under this section must include the name of the member, the name of the court or commission on which the member most recently acquired service credit, a statement that the member is entitled to a payment of money, and a statement of the procedure for keeping the member's account open or claiming a payment.

"(d) Before the 31st day after the day a notice is mailed or published under this section, whichever is later, an application must be filed with the retirement system:

"(1) by the member, requesting that the account be kept open; or

"(2) by the member or, if the member has died, by any other person entitled to payment based on the member's account, requesting payment based on money or credit in the account.

"(e) If a valid application is made as provided by Subdivision (2) of Subsection (d) of this section, the retirement system shall pay the applicant any benefit to which the applicant is entitled.

"(f) If a valid application is not made as provided by Subsection (d) of this section, the retirement system shall cancel the service credit in the member's account, transfer the accumulated contributions in the account to an appropriate account, and close the member's account.

"(g) Except as provided by Subsection (j) of this section, if a person files with the retirement system a valid application for payment based on a closed account the accumulated contributions of which have been transferred under Subsection (f) of this section, the retirement system shall reopen the member's individual account, reinstate in the account the amount transferred and credit canceled, and pay any benefit to which the applicant is entitled.

"(h) Except as provided by Subsection (j) of this section, if a person whose accumulated contributions have been transferred under Subsection (f) of this section again becomes a member, the retirement system shall reinstate in the member's active individual account in the retirement system the amount transferred and credit canceled.

"(i) Except as provided by Subsection (j) of this section, if a person whose accumulated contributions have been transferred under Subsection (f) of this section would be eligible to receive a benefit from the retirement system under Chapter 13 of this title were the person's account not closed, the person may file with the retirement system an application for retirement, and the retirement system shall reopen the person's account and reinstate the canceled credit for the purpose of allowing the person to retire.

"(j) A payment under Subsection (g) of this section, a reinstatement under Subsection (h) of this section, or a retirement under Subsection (i) of this section precludes action under any other of those subsections.

"(k) If a member makes an application as provided by Subdivision (1) of Subsection (d) of this section, the retirement system, after the fifth anniversary of the date the application was filed, shall reinstitute the process provided by Subsections (a), (c), (d), (e), and (f) of this section if disposition of money and credit in the account has not been made before that time.

"(l) The retirement system may apply the process provided by Subsections (a), (c), (d), (e), and (f) of this section to other money it holds for payment if the system first determines that no claim for the money is likely to be filed.

"Section 75.402. RETIREMENT SYSTEM RECORDS. Records of members and beneficiaries of the retirement system that are in the custody of the system are considered to be personnel records and are required to be treated as confidential information under Subdivision (1) of Subsection (a) of Section 3, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

"Section 75.403. REPRODUCTION AND PRESERVATION OF RECORDS. (a) The retirement system may photograph, microphotograph, or film any record in its possession.

"(b) If a record is reproduced under Subsection (a) of this section, the retirement system may destroy or dispose of the original record if the system first:

"(1) places the reproduction in a conveniently accessible file; and

"(2) provides for the preservation, examination, and use of the reproduction.

"(c) A photograph, microphotograph, or film of a record reproduced under Subsection (a) of this section is equivalent to the original record for all purposes,

including introduction as evidence in all courts and administrative agency proceedings. A duly certified or authenticated copy of such a photograph, microphotograph, or film is admissible as evidence equally with the original photograph, microphotograph, or film.

"(d) The executive director or an authorized representative may certify the authenticity of a photograph, microphotograph, or film of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, or film as provided by law.

"(e) Certified records shall be furnished to any person who is authorized by law to receive them.

"Section 75.404. BUDGET AND ACTUARIAL INFORMATION. The retirement system shall keep, in convenient form, data necessary for actuarial valuation of the funds of the retirement system and for checking the system's expenses."

SECTION 2. Subsection (a), Section 12.002, Title 110B, Revised Statutes, is amended to read as follows:

"(a) Except as provided by Subsection (b) of this section, the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, [~~and~~] the Texas Municipal Retirement System, and the Judicial Retirement System of Texas Plan Two are exempt from Sections 12.101, 12.102, 12.103(a), 12.103(b), 12.202, 12.203, 12.204, 12.205, 12.206, and 12.207 of this chapter. The Judicial Retirement System of Texas Plan One is exempt from all of Subchapters B and C of this chapter except Section 12.105. The optional retirement program governed by Chapter 36 of this title is exempt from all of Subchapters B and C of this chapter except Section 12.106."

SECTION 3. Subdivision (3), Section 13.001, Title 110B, Revised Statutes, is amended to read as follows:

"(3) 'Statewide retirement system' means the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Judicial Retirement System of Texas Plan One, the Judicial Retirement System of Texas Plan Two, the Texas County and District Retirement System, or the Texas Municipal Retirement System."

SECTION 4. Subsection (a), Section 22.002, Title 110B, Revised Statutes, is amended to read as follows:

"(a) Membership in the elected class of the retirement system is limited to:

"(1) persons who hold state offices that are normally filled by statewide election and that are not included in the coverage of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two;

"(2) members of the legislature; and

"(3) district and criminal district attorneys, to the extent that they receive salaries from the state general revenue fund."

SECTION 5. Subsection (b), Section 22.003, Title 110B, Revised Statutes, is amended to read as follows:

"(b) An office or employment that is included in the coverage of the Teacher Retirement System of Texas, [~~or~~] the Judicial Retirement System of Texas Plan One, or the Judicial Retirement System of Texas Plan Two is not a position with a department, commission, board, agency, or institution of the state for purposes of this subtitle."

SECTION 6. The title of Subtitle E, Title 110B, Revised Statutes, is amended to read as follows:

SUBTITLE E. JUDICIAL RETIREMENT SYSTEM OF TEXAS PLAN ONE

SECTION 7. Subdivisions (3) and (5), Section 41.001, Title 110B, Revised Statutes, are amended to read as follows:

"(3) 'Judicial officer' means a person who presides over a court or a commission to a court named in Section 42.001 of this subtitle and who has never been a member of the Judicial Retirement System of Texas Plan Two."

"(5) 'Retirement system' means the Judicial Retirement System of Texas Plan One or, as to periods before September 1, 1985, the Judicial Retirement System of Texas."

SECTION 8. Section 41.003, Title 110B, Revised Statutes, is amended to read as follows:

"Section 41.003. RETIREMENT SYSTEM. The retirement system is an entity of the state. The name of the Judicial Retirement System of Texas is changed to the Judicial Retirement System of Texas Plan One, and [~~is the name by which~~] all its business shall be transacted and all its property held under that name. Unless the context clearly indicates otherwise, a reference in law to the Judicial Retirement System of Texas is a reference to the Judicial Retirement System of Texas Plan One."

SECTION 9. Section 42.001, Title 110B, Revised Statutes, is amended to read as follows:

"Section 42.001. ELIGIBILITY FOR MEMBERSHIP. (a) Except as provided by Subsection (b) of this section, membership [~~Membership~~] in the retirement system is limited to persons who have never been eligible for membership in the Judicial Retirement System of Texas Plan Two and who, before the date the Judicial Retirement System of Texas Plan Two began operation, became judges, justices, and commissioners of:

"(1) the supreme court;

"(2) the court of criminal appeals;

"(3) courts of appeals;

"(4) district courts; and

"(5) commissions to a court specified in this subsection.

"(b) Except as provided by Section 42.103 of this subtitle, membership in the retirement system includes persons who are appointed under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), and who have never been members of the Judicial Retirement System of Texas Plan Two. A member appointed under that Act is a judicial officer for purposes of this subtitle.

"(c) Membership in the retirement system is mandatory for eligible persons.

"(d) [~~(c)~~] Membership in the retirement system begins on the first day an eligible [a] person holds a judicial office specified in Subsection (a) of this section."

SECTION 10. Section 42.002, Title 110B, Revised Statutes, is amended to read as follows:

"Section 42.002. MEMBERSHIP FEE. Each member of the retirement system annually shall pay the system a membership fee of $10 [~~$2~~]."

SECTION 11. Section 42.103, Title 110B, Revised Statutes, is amended to read as follows:

"Section 42.103. INELIGIBILITY FOR MEMBERSHIP. A retiree who makes an election under Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), or who is appointed under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), [~~Section 42.101 of this subtitle~~] may not rejoin the retirement system or receive credit in the retirement system for the period of an appointment or for any service performed under assignment [~~as provided by Section 42.102 of this subtitle~~]."

SECTION 12. Subsection (a), Section 45.101, Title 110B, Revised Statutes, is amended to read as follows:

"(a) Each month the payroll officer responsible for paying the state compensation of a judicial officer who is a member of the retirement system [~~comptroller of public accounts~~] shall deduct from the state compensation of the judicial officer [~~each member~~] a contribution computed at the rate required of a member of the employee class of the Employees Retirement System of Texas."

SECTION 13. Subchapter B, Chapter 45, Title 110B, Revised Statutes, is amended by adding Section 45.103 to read as follows:

"Section 45.103. CONTRIBUTIONS FOR SENIOR DISTRICT COURT JUDGES. Contributions for members appointed under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), are as provided by Subsections (d) and (f) of Section 9 of that Act."

SECTION 14. Subsection (b), Section 52.106, Title 110B, Revised Statutes, is amended to read as follows:

"(b) A person may simultaneously be a member of, and receive credit for service performed during the same period in the retirement system, the federal program providing old age and survivors insurance, and either the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two."

SECTION 15. Subdivision (2), Subsection (a), Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), is amended to read as follows:

"(2) 'Annuitant' shall mean an officer or employee who retires under:

"(A) the jurisdiction of the Employees Retirement System of Texas and either receives an annuity or is eligible to receive an annuity, pursuant to Subtitle C, E, or H, or Chapter 13, of Title 110B, Revised Statutes [~~Chapter 352, Acts of the 50th Legislature, 1947, as amended (Article 6228a, Vernon's Texas Civil Statutes), Chapter 99, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 6228b, Vernon's Texas Civil Statutes), or Chapter 570, Acts of the 65th Legislature, Regular Session, 1977 (Article 6228k, Vernon's Texas Civil Statutes)~~];

"(B) the jurisdiction of the Teacher Retirement System of Texas and either receives an annuity or is eligible to receive an annuity, pursuant to Subtitle D, Title 110B, Revised Statutes [~~Chapter 3, Title I, Texas Education Code~~], whose last state employment prior to retirement was as an employee of the Teacher Retirement System of Texas, school districts established within state eleemosynary institutions, the Texas Rehabilitation Commission, the Central Education Agency, or the Coordinating Board, Texas College and University System; or

"(C) the optional retirement program established by Chapter 36, Title 110B, Revised Statutes [~~Subchapter G, Chapter 51, Texas Education Code, as amended~~], and either receives an annuity or is eligible to receive an annuity under that program, if the person's last state employment before retirement, including employment by a public community/junior college, was as an officer or employee of the Coordinating Board, Texas College and University System, and if the person either:

"(i) would have been eligible to retire and receive a service retirement annuity from the Teacher Retirement System of Texas had the person not elected to participate in the optional retirement program; or

"(ii) is disabled."

SECTION 16. Paragraph (A), Subdivision (5), Subsection (a), Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), is amended to read as follows:

"(A) 'Employee' shall mean any appointive or elective state officer or employee in the service of the State of Texas, except employees of any university, senior or community/junior college, or any other agency of higher education within the meaning and jurisdiction of Chapter 61, Title 3, Texas Education Code:

"(i) who is retired or retires and is an annuitant under the jurisdiction of the Employees Retirement System of Texas, pursuant to Subtitle C, E, or H, or Chapter 13, of Title 110B, Revised Statutes [~~Chapter 352, Acts of the 50th Legislature, 1947, as amended (Article 6228a, Vernon's Texas Civil Statutes), Chapter 99, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 6228b, Vernon's Texas Civil Statutes), or Chapter 570, Acts of the 65th Legislature, Regular Session, 1977 (Article 6228k, Vernon's Texas Civil Statutes)~~], who is retired or retires and is an annuitant under the jurisdiction of the Teacher Retirement System of Texas, pursuant to Subtitle D, Title 110B, Revised Statutes [~~Chapter 3, Title I, Texas Education Code~~], whose last employment with the state prior to retirement was as an employee of the Teacher Retirement System of Texas, school districts established within state eleemosynary institutions, the Texas Rehabilitation Commission, the Central Education Agency, or the Coordinating Board, Texas College and University System, or who is retired or retires and is an annuitant under the optional retirement program established by Chapter 36, Title 110B, Revised Statutes [~~Subchapter G, Chapter 51, Texas Education Code, as amended~~], if the person's last state employment before retirement, including employment by a public community/junior college, was as an officer or employee of the Coordinating Board, Texas College and University System, and if the person either:

"(a) would have been eligible to retire and receive a service retirement annuity from the Teacher Retirement System of Texas had the person not elected to participate in the optional retirement program; or

"(b) is disabled; or

"(ii) who receives his compensation for services rendered to the State of Texas on a warrant issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of this state; or

"(iii) who receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the State Comptroller of Public Accounts upon the State Treasurer against appropriations made by the Texas Legislature from any state funds or against any trust funds held by the State Treasurer or who is paid from funds of an official budget of a state department, rather than from funds of the General Appropriations Act; or

"(iv) who is appointed, subject to confirmation of the senate, as a member of a board or commission with administrative responsibility over a statutory agency having statewide jurisdiction whose employees are covered by this Act."

SECTION 17. (a) Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes), is amended by adding Sections 1a, 4a, 4b, and 4c to read as follows:

"Section 1a. In this Act, 'retiree' means a person who has retired under the Judicial Retirement System of Texas, the Judicial Retirement System of Texas Plan One, or the Judicial Retirement System of Texas Plan Two."

"Section 4a. (a) A retiree may elect to be a judicial officer, unless the person has been involuntarily retired as a result of proceedings authorized by Article V, Section 1-a, of the Texas Constitution.

"(b) A retiree may make an election under this section by submitting, before the 91st day after the date of the person's retirement, written notice of the election to the chief justice of the supreme court.

"(c) Once a person who is eligible to make an election under this section submits notice of the election, the person may never again appear and plead as an attorney in any court in this state.

"Section 4b. (a) A retiree who makes an election under Section 4a of this Act is, with the retiree's consent to each assignment, subject to assignment:

"(1) by the chief justice of the supreme court to sit on any court of the state of the same or lesser dignity as that on which the person sat before retirement;

"(2) by the presiding judge of the court of criminal appeals to sit as a commissioner of that court; and

"(3) by the presiding judge of an administrative judicial district to sit on a court in that administrative district or, on request of the presiding judge of another administrative judicial district, on a court in that other administrative district, if in either circumstance the court is of the same or lesser dignity as that on which the person sat before retirement.

"(b) Assignment of a retiree to sit on a district court is subject to the requirements for judicial assignments contained in Sections 5 and 5a of this Act.

"(c) While serving under assignment as provided by this section, a retiree has all powers of a judge of the court to which the retiree has been assigned.

"(d) While serving under assignment as provided by this section, a retiree is entitled to be paid a retirement allowance as provided by Section 5a of this Act.

"(e) A retirement allowance may not be considered for any purpose as a salary or remuneration for the assignment or service.

"Section 4c. (a) The State Commission on Judicial Conduct shall certify to the chief justice of the supreme court the name of each person who was judge of a court described in Subsection (a), Section 42.001, Title 110B, Revised Statutes, and who has been involuntarily retired or removed from office or who resigned from office at a time when an investigation by the commission of the person's judicial conduct was pending, in progress, or on appeal. Information certified under this subsection is confidential, except as to persons entitled under this section to receive the information and except as provided by Article V, Section 1-a, of the Texas Constitution.

"(b) The secretary of state shall certify to the chief justice of the supreme court the name of each district judge who is defeated for reelection or whose court is abolished by the legislature.

"(c) The chief justice of the supreme court shall make the information certified under this section and the name of each eligible person who makes an election under Section 4a of this Act available to all persons responsible for making judicial assignments under this Act. A presiding judge shall make the name of each eligible former judge who certifies to the presiding judge a willingness to be assigned available to all persons responsible for making judicial assignments under this Act."

(b) Sections 42.101, 42.102, 42.104, and 44.005, Title 110B, Revised Statutes, are repealed.

SECTION 18. Sections 5a and 5b, Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 5a. Persons who were [~~Retired~~] district judges, who are retirees of the Judicial Retirement System of Texas, the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two, and[~~, as defined by Article 6228(b) of the Revised Civil Statutes of Texas, as amended,~~] who have made an election under Section 4a of this Act; [~~consented to be subject to assignment,~~] all regular district judges in this state;[;] and all former district judges who were elected at a general election or appointed by the governor,[;] who have not been defeated for reelection,[;] who have not been removed from office by impeachment, the Supreme Court, the governor upon address of the legislature, the State [~~Judicial Qualifications~~] Commission on Judicial Conduct, or by the legislature's abolishment of the judge's court, who have not resigned at a time when an investigation by the State Commission on Judicial Conduct of their judicial conduct was pending, in progress, or on appeal, [;] who are not more than 70 years of age,[;] and who certify to the presiding judge a willingness to serve [~~and to comply with the same prohibitions relating to the practice of law that are imposed on a retired judge by Section 7, Article 6228(b) of the Revised Civil Statutes of Texas,~~

~~1925, as amended or hereafter amended~~], may be assigned under the provisions of this Act by the presiding judge of the administrative judicial district wherein such assigned judge resides, and while so assigned, shall have all the powers of a judge thereof. Before assigning a former district judge, a presiding judge shall ascertain the former judge's age. Once a former district judge certifies under this section a willingness to serve as an assigned judge, the person may never again appear and plead as an attorney in any court in this state. When a person is assigned under this section [~~such district judge is so assigned~~] by the presiding judge of an administrative judicial district to a court in the same administrative district, or to a court in another administrative district upon call of the presiding judge of such other administrative district and then reassigned as provided for in Section 6 of this Act, as amended, it shall be the duty of such judge so assigned or reassigned to serve in such court or administrative district to which he may be assigned, or reassigned unless for good cause presented by him in writing to the presiding judge of his administrative district, he shall be relieved of such assignment by such presiding judge; provided, however, after the presentation of a written statement declining such duty for good cause by such district judge, if the presiding judge refuses to relieve the district judge from the assignment, the district judge may, within five days after such refusal, petition the Chief Justice of the Supreme Court of the State of Texas to be relieved from such assignment for good cause, which said Chief Justice may at his discretion grant or refuse.

"The compensation, salaries and expenses of such judges while so assigned or reassigned shall be paid in accordance with the laws of the state, except that the salary of such retired judges shall be paid out of moneys appropriated from the General Revenue Fund for such purpose in an amount representing the difference between all of the retirement benefits of such judge as a retired district judge and the salary and compensation from all sources of the judge of the court wherein he is assigned, and determined pro-rata for the period of time he actually sits as such assigned judge. On certification of the presiding judge of the administrative judicial district that a former district judge has rendered services under the provisions of this Act, the former district judge shall be paid, out of county funds and out of money appropriated by the legislature for such purpose, for services actually performed, the same amount of compensation, salary, and expenses that the regular judge is entitled to receive from the county and from the state for such services.

"Section 5b. A person who was a [~~retired~~] district judge and who is a retiree of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two[~~, as defined by Chapter 99, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 6228b, Vernon's Texas Civil Statutes),~~] may be assigned by the presiding judge of the administrative judicial district wherein the assigned judge resides to a domestic relations or juvenile court within the geographic limits of the respective administrative judicial district. A presiding judge may, with the consent of a retired district judge within his district, make an assignment outside of his judicial district with the specific authorization of the presiding judge of the district in which that assignment is made. The assignment shall be governed by all other provisions of this Act, except that the county wherein the domestic relations or juvenile court is located shall pay the salary stipulated in Section 5a of this Act."

SECTION 19. Section 2, Chapter 376, Acts of the 62nd Legislature, Regular Session, 1971 (Article 200b, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2. In any county coming within the purview of Section 1 of this Act, any judge of a court having any district court jurisdiction may hear and determine any matter pending in any other of the courts having any district court jurisdiction, whether the matter is preliminary or final or after judgment in the matter. The judge

may sign any judgment or order in any of the courts, with or without having the case transferred. Any such judgment, order, or action shall be valid and binding to the same extent as if the case were pending in the court of the judge so acting. This authority extends to any active or retired judge assigned to any of the courts having any district court jurisdiction under the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes)[~~, or under the provisions of Chapter 99, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 6228b, Vernon's Texas Civil Statutes)~~]."

SECTION 20. Section 3, Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

"(c) To be eligible for appointment, an applicant must not have been removed from office by impeachment, the supreme court, or the governor on address by the legislature, must not have been removed from office or involuntarily retired by [or] the State Commission on Judicial Conduct or the supreme court, and must not have resigned from office at a time when an investigation by the State Commission on Judicial Conduct of the applicant's judicial conduct was pending, in progress, or on appeal."

"(e) The State Commission on Judicial Conduct shall certify to the presiding judge of the First Administrative Judicial District the name of each person who was judge of a district court and who has been involuntarily retired or removed from office or who resigned from office at a time when an investigation by the commission of the person's judicial conduct was pending, in progress, or on appeal. Information certified under this subsection is confidential, except as to persons entitled under this subsection to receive the information and except as provided by Article V, Section 1-a, of the Texas Constitution."

SECTION 21. Subsection (b), Section 4, Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), is amended to read as follows:

"(b) A senior district court judge who is not a retiree of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two and who is appointed [~~and confirmed~~] under this Act may not, during the term of appointment, appear and plead as an attorney in any court in this state. When a person who is a retiree of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two is appointed under this Act, the person becomes ineligible to appear and plead as an attorney in any court in this state. On confirmation of a retiree's appointment under this Act, the restriction on the retiree's practice of law becomes permanent. If a retiree's appointment is not confirmed, the restriction ends."

SECTION 22. Subsection (b), Section 6, Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), is amended to read as follows:

"(b) A senior district court judge appointed under this Act who is a retiree of the Judicial Retirement System of Texas Plan One, the Judicial Retirement System of Texas Plan Two, or the Texas County and District Retirement System is entitled to compensation, salary, and expenses from the general revenue fund of Dallas County in an amount equal to the amount computed under Subsection (a) of this section less the amount of any annuity the judge receives during the same period from either or both of the retirement systems."

SECTION 23. Subsections (a), (b), and (d), Section 9, Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), are amended to read as follows:

"(a) A senior district court judge appointed under this Act who is a retiree of the Judicial Retirement System of Texas Plan One, the Judicial Retirement System

of Texas Plan Two, or the Texas County and District Retirement System is entitled to receive retirement benefits otherwise payable during the period an appointment is in effect but may not resume membership or receive credit in any of those retirement systems from which the judge has retired.

"(b) A senior district court judge appointed under this Act who is not a retiree of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two retains or resumes membership in the appropriate retirement system and accrues service credit in that retirement system for each month the appointment is in effect."

"(d) Before the 16th day of each month, the custodian of county funds of Dallas County shall pay or cause to be paid to the Judicial Retirement System of Texas Plan One and the Judicial Retirement System of Texas Plan Two at each respective [~~the~~] system's office:

"(1) a contribution deducted from the compensation of each senior district court judge at the rate required of other members of the appropriate retirement system for current service and based on the state salary paid to elected district judges during that period; and

"(2) a contribution from the county general revenue fund for each senior district court judge at the effective rate of state contributions to the appropriate retirement system, determined, respectively, by the Judicial Retirement System of Texas Plan One and the Judicial Retirement System of Texas Plan Two as a monthly percentage of the salary that would be paid by the state if the judge were an elected district judge that is based on the ratio of legislative appropriations to finance benefits payable from the appropriate system to the state salaries payable to contributing members of the system for the period."

SECTION 24. Subsection (d), Section 3, Chapter 475, Acts of the 64th Legislature, 1975, as amended (Article 1933a, Vernon's Texas Civil Statutes), is amended to read as follows:

"(d) A retired judge appointed under this section shall be a former judge who, prior to the appointment, has served at least eight years as the county judge of a county in this state or who has served as a district judge of this state[~~;~~] and [~~who has~~] qualified for service retirement under the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two [~~the judicial retirement system~~]."

SECTION 25. Section 4, Chapter 552, Acts of the 64th Legislature, 1975, as amended (Article 2338-1c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 4. A retired judge appointed to sit for the regular judge under the provisions of this Act shall receive for the services actually performed the same amount of salary which the regular judge is entitled to receive for such services. The amount to be paid for such services shall be paid in the same manner as the regular judge is paid on certification by the presiding judge of the administrative judicial district that the retired judge has rendered the services and is entitled to receive the salary. Such payment shall be made from the item in the judiciary section, comptrollers department, of the appropriations act providing for payment of salaries of district judges and criminal district judges. This Act does not entitle the retired judge of a special juvenile court or a domestic relations court to participate in the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two [~~state Judicial Retirement System~~]. No part of the amount paid to a retired judge sitting for the regular judge shall be deducted or paid out of the salary of the regular judge."

SECTION 26. Section 1, Chapter 217, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 6252-8a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. 'Employee' as used in this Act means any appointed officer or employee in a department of the State who is employed on a basis or a position normally requiring not less than 900 hours per year, but shall not include members of the Legislature or any incumbent of an office normally filled by vote of the people; nor persons on piecework basis; nor operators of equipment or drivers of teams whose wages are included in rental rate paid the owners of said equipment or team; nor any person who is covered by the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two [~~the State of Texas~~]; nor any person who is covered by the Teacher Retirement System of Texas, except persons employed by the Teacher Retirement System, the Central Education Agency, the Texas Rehabilitation Commission, and classified, administrative, and professional staff members employed by a State institution of higher education who have accumulated vacation or sick leave, or both, during such employment."

SECTION 27. A person who, before the effective date of this Act, elected under Section 42.101, Title 110B, Revised Statutes, or a predecessor statute, to be a judicial officer, or certified a willingness to serve as an assigned judge under Section 5a, Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), or under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), may rescind the election or certification by submitting, before the 91st day after the effective date of this Act, a written notice to that effect to the officer to whom the original election or certification was made.

SECTION 28. (a) Except as provided by Subsection (b) of this section, this Act takes effect on the later of:

(1) September 1, 1985; or

(2) the first day of the calendar month following the month in which the executive director of the Employees Retirement System of Texas files with the secretary of state a certification stating that the United States Internal Revenue Service has issued a determination letter that the Judicial Retirement System of Texas Plan Two, as established by this Act, is a qualified retirement plan under Section 401(a), federal Internal Revenue Code.

(b) If the executive director of the Employees Retirement System of Texas files with the secretary of state a certification either stating the executive director's finding that the United States Internal Revenue Service is highly unlikely to issue a determination letter that the Judicial Retirement System of Texas Plan Two, as established by this Act, is a qualified retirement plan under Section 401(a), federal Internal Revenue Code, or stating that the United States Internal Revenue Service has declined to issue a determination letter that the Judicial Retirement System of Texas Plan Two is qualified under Section 401(a), federal Internal Revenue Code, this Act has no effect.

(c) The secretary of state shall publish a certification filed under this section in the Texas Register.

SECTION 29. 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 was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE ON SENATE BILL 1125 DISCHARGED

On motion of Senator Jones and by unanimous consent, the Conference Committee on **S.B. 1125** was discharged.

Senator Jones moved to concur in the House amendments to **S.B. 1125**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1323

Senator Washington submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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 **H.B. 1323** 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.

WASHINGTON	DANBURG
CAPERTON	HURY
McFARLAND	PARKER
WHITMIRE	SCHOOLCRAFT
GREEN	T. SMITH
On the part of the Senate	On the part of the House

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

RECESS

On motion of Senator Mauzy, the Senate at 5:10 o'clock p.m. took recess until 7:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 7:00 o'clock p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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:

The House has concurred in Senate amendments to **H.B. 387** by a record vote of 136 ayes, 1 noe, and 1 present not voting.

The House adopted the Conference Committee Report on **H.B. 20** by a record vote of 136 ayes, 13 noes and 1 present not voting.

The House has adopted the Conference Committee Report on **S.B. 1342** by a record vote of 137 ayes, 0 noes and 1 present not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT
SENATE BILL 738

Senator Uribe submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 738** 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.

URIBE	P. HILL
MAUZY	COLBERT
TRUAN	LEONARD
WASHINGTON	WOLENS
PARKER	OLIVEIRA
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to students at an institution of higher education who are absent from classes on a religious holy day.

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

SECTION 1. Chapter 51, Education Code, is amended by adding Section 51.911 to read as follows:

Sec. 51.911. RELIGIOUS HOLY DAYS. (a) In this section:

(1) "Institution of higher education" has the meaning assigned by Section 61.003(7) of this code, but includes the Southwest Collegiate Institute for the Deaf and Texas State Technical Institute.

(2) "Religious holy day" means a holy day observed by a religion whose places of worship are exempt from property taxation under Section 11.20, Tax Code.

(b) An institution of higher education shall allow a student who is absent from classes for the observance of a religious holy day to take an examination or complete an assignment scheduled for that day within a reasonable time after the absence if, not later than the 15th day after the first day of the semester, the student notified the instructor of each class the student had scheduled on that date that the student would be absent for a religious holy day.

(c) The notification provided by Subsection (b) of this section shall be in writing and shall be delivered by the student personally to the instructor of each class, with receipt of the notification acknowledged and dated by the instructor, or by certified mail, return receipt requested, addressed to the instructor of each class.

(d) A student who is excused under this section may not be penalized for the absence, but the instructor may appropriately respond if the student fails to satisfactorily complete the assignment or examination.

(e) The Coordinating Board, Texas College and University System, shall adopt rules for the implementation of this section and shall disseminate the rules to the appropriate institutions under its jurisdiction.

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 was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1592

Senator Lyon submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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 **H.B. 1592** 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.

LYON	HIGHTOWER
WHITMIRE	ECKELS
MONTFORD	PERRY
HENDERSON	ARMBRISTER
On the part of the Senate	On the part of the House

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Caperton and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 105**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 105 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on **S.B. 105**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

CONFERENCE COMMITTEE REPORT HOUSE BILL 1627

Senator Sarpalius submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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 **H.B. 1627** 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.

SARPALIUS	GIBSON
SIMS	SHEA
HOWARD	JACKSON
	HARRISON
	HORN
On the part of the Senate	On the part of the House

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

MOTION TO ADOPT CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1627

Senator Sarpalius moved to adopt the Conference Committee Report on **H.B. 1627**.

On motion of Senator Sarpalius and by unanimous consent, the motion to adopt the Conference Committee Report was withdrawn.

SENATE BILL 1452 WITH HOUSE AMENDMENTS

Senator Jones called **S.B. 1452** 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.

Floor Amendment No. 1 - Madla

Amend **S.B. 1452** by adding a new Section 2 to read as follows, and by renumbering current Section 2 accordingly:

SECTION 2. In addition to sums previously appropriated by the current General Appropriations Act, the sum of $1,700,000 is appropriated to the Department of Mental Health and Mental Retardation from the General Revenue Fund for the period ending August 31, 1985, for the purpose of paying utility expenses. The department may transfer such amounts of this supplemental appropriation as necessary to the appropriate utility accounts of the institutions of the deparment.

Floor Amendment No. 2 - Oliveira

Amend **S.B. 1452** by adding a new Section 3 to read as follows, and by renumbering other sections accordingly:

SECTION 3. In addition to the sums appropriated by the current General Appropriations Act from the Public Accountancy Fund (#470) to the Texas State Board of Public Accountancy, the sum of $31,297 is appropriated from that fund to the Texas State Board of Public Accountancy for the period ending August 31, 1985, to pay for costs associated with the employment of a chief accountant and for processing of complaints against those in violation of the Public Accountancy Act of 1979, as amended.

Floor Amendment No. 3 - McWilliams

Amend **S.B. 1452** by adding a new Section 4 to read as follows, and renumbering the other Sections accordingly:

SECTION 4. In addition to sums previously appropriated by the current General Appropriations Act, the sum of $10,000 is appropriated to the Board of Chiropractic Examiners from the Chiropractic Examiner's Fund No. 140 for the period ending August 31, 1985, for the purpose of program administration.

The amendments were read.

Senator Jones moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 1342.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1342 ADOPTED

Senator Jones called from the President's table the Conference Committee Report on **S.B. 1342.** (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Jones, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 1455.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1455 ADOPTED

Senator Farabee called from the President's table the Conference Committee Report on **S.B. 1455.** (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Farabee, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 1170.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1170 ADOPTED

Senator Farabee called from the President's table the Conference Committee Report on **S.B. 1170.** (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

(Senator McFarland in Chair)

HOUSE CONCURRENT RESOLUTION 176 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:

H.C.R. 176, creating Joint Special Committee on Cogeneration.

The resolution was read second time.

Senator Farabee offered the following amendment to the resolution:

Amend **H.C.R. 176** by striking everything below the 7th WHEREAS clause and substituting the following:

WHEREAS, The stability of electric utility pricing influences greatly the economic future of Texas and the ability of the state to grow in a structured manner; and

WHEREAS, It is the policy of the State of Texas to maintain a healthy, viable public utility system while delivering power reliably to the consumer at the lowest possible cost; and

WHEREAS, Toward this end, the Public Utility Commission of Texas has actively encouraged the use by utilities of available congeneration and small power production as an option to the construction of new power plants; and

WHEREAS, Purchases of electricity from cogenerators and small power producers, where they enable utilities to avoid unnecessary capital expenditures, could make a significant contribution to Texas energy needs; and

WHEREAS, Such purchases of outside power allow Texas utilities to tap the cogeneration and small power production potential of the state; and

WHEREAS, Use of this power may contribute to reasonable electric rates, result in savings to utility customers, and potentially position the state competitively to attract new business; and

WHEREAS, Additional measures to augment the economic use of cogeneration and small power production are an appropriate topic for interim legislative study; now, therefore, be it

RESOLVED, That the 69th Legislature of the State of Texas hereby urges the Speaker of the House and the Lieutenant Governor to establish a special interim committee to examine the issues related to cogeneration and small power production with regard to the future electric needs of the citizens of the State of Texas; and, be it further

RESOLVED, That the name for the interim study committee be suggested as the Joint Special Committee on Cogeneration; and, be it further

RESOLVED, That the committee may be composed of 19 members; the chairman of the Senate State Affairs Committee who shall be cochairman of the committee, the chairman of the Senate Natural Resources Committee, and five persons to be appointed by the Lieutenant Governor; the chairman of the State Affairs Committee of the House who shall serve as cochairman of the committee, the chairman of the House Energy Committee, and five persons to be appointed by the Speaker of the House; and five persons to be appointed by the Governor; the committee shall subsequently hold meetings and public hearings at the call of the cochairmen; and, be it further

RESOLVED, That the legislature, in suggesting the committee, acknowledge those utilities and industries that have entered into cogeneration and other power supply agreements and commend them for their pioneering efforts in this regard toward the benefit of Texas ratepayers; and, be it further

RESOLVED, That the legislature commend also the Public Utility Commission of Texas on its encouragement of cogeneration and other power supply agreements, with simultaneous consideration for their financial integrity of the state's utilities; and, be it further

RESOLVED, That the interim study committee examine the Commission's need for additional resources, or for further legislative authorization, to develop the economic potential of the use of cogeneration and small power production; and, be it further

RESOLVED, That the committee study issues associated with the wheeling of electricity derived from cogenerators and small power producers; and, be it further

RESOLVED, That the committee be encouraged to solicit input from Members of the Southwest Power Pool, the Energy Reliability Council of Texas, the Western Regional Reliability Council, and representatives of cogenerators and small power producers; and, be it further

RESOLVED, That the committee may have the power to issue process as provided in the Senate and House Rules of Procedure and in Section 12, Article 5429f, Vernon's Texas Civil Statutes; and, be it further

RESOLVED, That the committee may have all other powers and duties provided to special committees by the Senate and House Rules of Procedure, Article 5429f, Vernon's Texas Civil Statutes, and by policies of the committees on administration; and, be it further

RESOLVED, That the members of the House and of the Senate may be reimbursed for their expenses incurred in carrying out the provisions of this resolution in accordance with the Senate and House Rules of Procedure and the policies of the committees on administration from the contingent expense fund of the Senate and the contingent expense fund of the House respectively; and that all members of the executive branch may be reimbursed for their expenses from funds of their respective commissions, agencies, or departments; and that other necessary expenses of operation be paid from the contingent expense fund of the Senate and the contingent expense fund of the House equally; and, be it further

RESOLVED, That the interim study committee should be asked to make a complete report, including findings and recommendations and drafts of any legislation considered necessary, to the 70th Legislature when it convenes in January 1987; five copies of the completed report should be filed in the Legislative Reference Library; five copies should be filed with the Texas Legislative Council; two copies should be filed with the Secretary of the Senate; and two copies should be filed with the Speaker of the House; following official distribution of the committee report, all remaining copies should be deposited with the Legislative Reference Librarian.

The amendment was read and was adopted.

The resolution as amended was adopted.

(President in Chair)

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. 168	**S.C.R. 170**	**S.B. 37**	**S.B. 72**
S.B. 125	**S.B. 141**	**S.B. 162**	**S.B. 270**
S.B. 346	**S.B. 358**	**S.B. 415**	**S.B. 435**
S.B. 463	**S.B. 465**	**S.B. 466**	**S.B. 497**
S.B. 548	**S.B. 550**	**S.B. 574**	**S.B. 608**
S.B. 609	**S.B. 639**	**S.B. 652**	**S.B. 681**
S.B. 688	**S.B. 718**	**S.B. 765**	**S.B. 831**
S.B. 923	**S.B. 926**	**S.B. 1081**	**S.B. 1123**
S.B. 1167	**S.B. 1187**	**S.B. 1225**	**S.B. 1294**
S.B. 1301	**S.B. 1309**	**S.B. 1361**	**H.J.R. 72**
S.B. 1465	**H.C.R. 1**	**H.C.R. 40**	**H.C.R. 42**
H.C.R. 99	**H.C.R. 100**	**H.C.R. 107**	**H.C.R. 114**
H.C.R. 131	**H.C.R. 153**	**H.C.R. 181**	**H.C.R. 191**
H.C.R. 193	**H.C.R. 205**	**H.C.R. 207**	**H.C.R. 211**
H.C.R. 213	**H.C.R. 227**	**H.C.R. 228**	**H.C.R. 229**
H.C.R. 235	**H.C.R. 237**	**H.C.R. 239**	**H.C.R. 241**
H.C.R. 242	**H.C.R. 248**	**H.B. 14**	**H.B. 44**
H.B. 260	**H.B. 271**	**H.B. 293**	**H.B. 477**

H.B. 595	**H.B. 655**	**H.B. 659**	**H.B. 740**
H.B. 744	**H.B. 903**	**H.B. 922**	**H.B. 1010**
H.B. 1052	**H.B. 1055**	**H.B. 1378**	**H.B. 1583**
H.B. 1775	**H.B. 1903**	**H.B. 1908**	**H.B. 1936**
H.B. 1963	**H.B. 1986**	**H.B. 1992**	**H.B. 2001**
H.B. 2084	**H.B. 2162**	**H.B. 2220**	**H.B. 2375**
H.B. 2389	**H.B. 2419**	**H.B. 2422**	**H.B. 2434**
H.B. 2437	**H.B. 2463**	**H.B. 2469**	**H.B. 2481**
H.B. 2486	**H.B. 2496**	**H.B. 2506**	**H.B. 2516**
H.B. 2520	**S.B. 1454** (Signed subject to Art. III, Sec. 49a of the Constitution)		

COMMITTEE SUBSTITUTE HOUSE BILL 1628 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:

C.S.H.B. 1682, Relating to the definition of interest in state credit law.

The bill was read second time.

Senator Krier offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 1682** by renumbering Section 3 as Section 4 and adding a new Section 3 to read as follows:

"SECTION 3. Section (2), Article 1.06, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-1.06, Vernon's Texas Civil Statutes), is amended to read as follows:

(2) Any person who contracts for, charges or receives interest at a rate which is in excess of the greater of double the [~~amount~~] rate of interest allowed by this Subtitle or eighteen per cent a year shall forfeit as an additional penalty, all principal, up to but not in excess of Twenty Thousand Dollars, as well as all interest and all other charges and shall pay reasonable attorney fees set by the court; provided further that any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by fine of not more than One Thousand Dollars. Each contract or transaction in violation of this section shall constitute a separate offense punishable hereunder."

The amendment was read and was adopted.

On motion of Senator Harris 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.

COMMITTEE SUBSTITUTE HOUSE BILL 1682 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 **C.S.H.B. 1682** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT
SENATE BILL 399

Senator Sarpalius submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 399** 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.

SARPALIUS	SMITHEE
EDWARDS	RILEY
SHARP	SHORT
SIMS	
TRUAN	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the determination of death by a physician after consultation with a registered nurse; amending Subsection (a), Section 1, and Sections 2 and 3, Chapter 165, Acts of the 66th Legislature, Regular Session, 1979 (Article 4447t, Vernon's Texas Civil Statutes).

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

SECTION 1. Subsection (a), Section 1, Chapter 165, Acts of the 66th Legislature, Regular Session, 1979 (Article 4447t, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) A person will be considered legally dead if, based on ordinary standards of medical practice, there is the irreversible cessation of spontaneous respiratory and circulatory functions. If an anticipated death occurs and a physician is not available to make the determination of death in person, a physician may, after consulting by telephone with a registered nurse in attendance at the time of death or immediately after the death, make the determination and pronouncement of death by telephone."

SECTION 2. Sections 2 and 3, Chapter 165, Acts of the 66th Legislature, Regular Session, 1979 (Article 4447t, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 2. A physician who determines death in accordance with the provisions of Section 1(b) of this Act, or after consulting with a registered nurse in accordance with the provisions of Section 1(a) of this Act, is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his or her acts or the actions of others based on that determination.

Section 3. (a) A person who acts in good faith in reliance on a determination of death by a physician is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his or her act.

"(b) A registered nurse who acts in good faith in consulting with a physician in accordance with the provisions of Section 1(a) of this Act is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his or her acts or for the acts of others."

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Uribe and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 738**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 738 ADOPTED

Senator Uribe called from the President's table the Conference Committee Report on **S.B. 738**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Uribe, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 1.

Nays: Washington.

HOUSE BILL 1655 ON SECOND READING

On motion of Senator Leedom 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. 1655, Relating to the creation of an advisory commission to study the establishment of the 9-1-1 telephone number as the primary emergency telephone number in the state.

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

HOUSE BILL 1655 ON THIRD READING

Senator Leedom moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1655** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUEST PRESENTED

Senator Sarpalius was recognized and presented former Member, Senator Grady Hazelwood.

The Members extended a warm welcome to Senator Hazelwood.

MOTION TO PLACE HOUSE BILL 1555 ON SECOND READING

Senator Leedom moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1555, Relating to the operation of an authorized emergency vehicle.

On motion of Senator Leedom, the motion to suspend the regular order was withdrawn.

CONFERENCE COMMITTEE REPORT
SENATE BILL 967

Senator Sims submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 967** 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.

SIMS	GEISTWEIDT
CAPERTON	ROBNETT
LEEDOM	SAUNDERS
BROWN	SCHLUETER
	T. SMITH
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to repealing the requirement that a city have a population of 12,000 or less inhabitants as a condition for annexing an area less than 500 feet wide and two sides of which are contiguous with the boundaries of such city; providing rules governing annexation for limited or full purpose; amending the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), by amending Subsections (a), Section 7B-1 and Subsection C, Section 10.

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

SECTION 1. Subsections (a), Section 7B-1, Municipal Annexation Act, as amended (Article 970a, Revised Civil Statutes of Texas), are amended to read as follows:

"(a) No home rule or general law city may annex any area, whether publicly or privately owned, unless the width of such area at its narrowest point is at least 500 feet, except that a city [~~having a population of twelve thousand (12,000) inhabitants or less~~] may annex an area that is less than 500 feet in width if the corporate limits of the city are contiguous with the property on at least two sides; and except that adjacent cities may accomplish mutually agreeable adjustments in their boundaries of areas that are less than 500 feet in width. Provided, further, that the prohibition in this section against annexing an area less than 500 feet in width

"[~~(a) No home rule or general law city may annex any area, whether publicly or privately owned, unless the width of such area at its narrowest point is at least 500 feet, except that a city having a population of twelve thousand (12,000) inhabitants or less may annex an area that is less than 500 feet in width if the corporate limits of the city are contiguous with the property on at least two sides, provided, however, that the provisions of this paragraph (a)~~] shall not apply to any annexation initiated upon written petition of the owner or owners or of a majority of the qualified voters of the area to be annexed."

SECTION 2. Subsection C, Section 10, Municipal Annexation Act, as amended by Section 2, Chapter 842, Acts of the 67th Legislature, Regular Session, 1981 (Article 970a, Vernon's Texas Civil Statutes), is amended to read as follows:

"C. (1) In no event shall a service plan provide fewer services or a lower level of services in the area to be annexed than were in existence in that area at the time immediately preceding the annexation. However, it is not the intent of this Act to require that a uniform level of services be provided to all areas of the city where differing characteristics of topography, land utilization, and population density are considered as a sufficient basis for providing differing service levels. Nothing in this Act shall be construed to limit or repeal home-rule charter provisions providing for annexation for limited purposes other than ad valorem taxation.

"(2) Notwithstanding any other provision of this Act, no city may amend its charter to authorize annexations for limited purposes. Provided, further, the area of a city's extraterritorial jurisdiction may not be extended by any annexations except for full purposes.

"(3) Subdivision (2) of this subsection expires June 1, 1987."

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

CONFERENCE COMMITTEE REPORT
HOUSE BILL 498

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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 **H.B. 498** 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.

MONTFORD	SHAW
JONES	SCHLUETER
HOWARD	MORALES
WHITMIRE	BLANTON
GLASGOW	
On the part of the Senate	On the part of the House

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

SENATE RESOLUTION 629

Senator Howard offered the following resolution:

WHEREAS, The 68th Legislature enacted Subchapter I, of Chapter 51, Texas Education Code; and

WHEREAS, The Eminent Scholars Program implemented by that subchapter authorizes the Legislature to appropriate matching funds for the income on private grants made for the endowment of academic positions at the State's institutions of higher education; and

WHEREAS, That subchapter contains the following language of legislative intent: "It is the intent of the legislature that, insofar as possible within constitutional and fiscal constraints, the program established by this subchapter shall operate in perpetuity."; and

WHEREAS, Fiscal constraints have not allowed the program to be funded at appropriate levels for the last two biennia; now, therefore, be it

RESOLVED by the Senate of the State of Texas, That it remains committed to full funding of the Eminent Scholars Program as soon as fiscal circumstances permit.

HOWARD
MONTFORD

The resolution was read and was adopted.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 805

Senator Sharp submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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 **H.B. 805** 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.

SHARP	RILEY
FARABEE	R. LEWIS
LYON	MESSER
LEEDOM	PERRY
BROWN	ARMBRISTER
On the part of the Senate	On the part of the House

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

COMMITTEE SUBSTITUTE HOUSE BILL 1678 ON SECOND READING

On motion of Senator Blake 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. 1678, Relating to the participation of physicians in executions of convicts by the Texas Department of Corrections by means of lethal injection; amending Article 43.14, Code of Criminal Procedure, 1965, as amended.

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

COMMITTEE SUBSTITUTE HOUSE BILL 1678 ON THIRD READING

Senator Blake 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. 1678** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Sims and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 967**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 967 ADOPTED

Senator Sims called from the President's table the Conference Committee Report on **S.B. 967**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

COMMITTEE SUBSTITUTE HOUSE BILL 58 ON SECOND READING

On motion of Senator Green 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. 58, Relating to injunctions of common nuisances.

The bill was read second time.

Senator Green offered the following amendment to the bill:

Amend **C.S.H.B. 58** by striking subsection (f) and substituting in lieu thereof the following:

(f) Nothing herein is intended to allow a suit to enjoin and abate a common nuisance to be brought by an individual against any enterprise whose sole business is that of a bookstore or movie theatre.

The amendment was read and was adopted.

On motion of Senator Green 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.

COMMITTEE SUBSTITUTE HOUSE BILL 58 ON THIRD READING

Senator Green 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. 58** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Sharp and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 805**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 805 ADOPTED

Senator Sharp called from the President's table the Conference Committee Report on **H.B. 805**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

HOUSE BILL 1219 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. 1219, Relating to costs incurred by a bank when required to disclose bank records.

The bill was read second time.

Senator Harris offered the following committee amendment to the bill:

Committee Amendment No. 1

On line 23, page 1, after the word "costs" insert ", in civil and criminal matters," and on line 2, page 2, add the following after the word "records": "such costs to be determined by the court unless agreed to by the party seeking the examination or production of the records or accounts."

The amendment was read.

On motion of Senator Harris and by unanimous consent, Committee Amendment No. 1 was tabled.

Senator Mauzy offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1219** by striking the sentence following "herein" on line 34 in Section 1 thereof and substituting the following:

"In civil matters a bank shall be entitled to recover actual costs which it incurs in complying with orders, subpoenas, and requests for the disclosure, examination, or production of records of deposits or accounts and other bank records. Actual costs may be determined by the Court based upon evidence presented or may be agreed to by the party seeking the examination or production of the records or accounts."

The amendment was read and was adopted.

On motion of Senator Harris 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 1219 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. 1219** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1429 ON THIRD READING

Senator Glasgow moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

H.B. 1429, Relating to the sale or distribution of rabies vaccine for animals; providing a penalty.

The motion prevailed by the following vote: Yeas 16, Nays 8.

Yeas: Brooks, Brown, Glasgow, Harris, Henderson, Kothmann, Krier, Leedom, McFarland, Mauzy, Parmer, Santiesteban, Sharp, Uribe, Washington, Whitmire.

Nays: Barrientos, Blake, Howard, Jones, Sarpalius, Sims, Traeger, Truan.

Absent: Caperton, Edwards, Farabee, Green, Lyon, Montford, Parker.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Barrientos, Blake, Howard, Jones, Sarpalius, Sims, Traeger and Truan asked to be recorded as voting "Nay" on the final passage of the bill.

(Senator McFarland in Chair)

HOUSE JOINT RESOLUTION 54 ON SECOND READING

On motion of Senator Brown 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. 54, Proposing a constitutional amendment to authorize the legislature to enact laws permitting a city or town to spend public funds and levy assessments for the relocation or replacement of water laterals on private property.

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

HOUSE JOINT RESOLUTION 54 ON THIRD READING

Senator Brown 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. 54** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

(President in Chair)

SENATE RULE 96(h) SUSPENDED

On motion of Senator Caperton and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.J.R. 14**.

CONFERENCE COMMITTEE REPORT ON SENATE JOINT RESOLUTION 14 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on **S.J.R. 14**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Caperton, the Conference Committee Report was adopted by the following vote: Yeas 26, Nays 5.

Yeas: Barrientos, Blake, Brooks, Caperton, Edwards, Farabee, Green, Henderson, Jones, Kothmann, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Nays: Brown, Glasgow, Harris, Howard, Krier, Sarpalius.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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:

The House refused to concur in Senate amendments to **H.B. 473** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Richardson, Chairman; Rudd, Whaley, Taylor, A. Smith.

The House refused to concur in Senate amendments to **H.B. 2036** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Campbell, Haley, C. Evans, Hammond, Colbert.

The House concurred in Senate amendments to **H.B. 910** by a non-record vote.

The House concurred in Senate amendments to **H.B. 2431** by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 473

Senator Montford called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 473** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 473** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Montford, Chairman; Farabee, Howard, Krier and McFarland.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Caperton and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 290**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 290 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on **S.B. 290**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Caperton, the Conference Committee Report was adopted by the following vote: Yeas 25, Nays 6.

Yeas: Barrientos, Blake, Caperton, Edwards, Farabee, Green, Harris, Henderson, Jones, Kothmann, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Nays: Brooks, Brown, Glasgow, Howard, Krier, Sarpalius.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Lyon and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 1592**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1592 ADOPTED

Senator Lyon called from the President's table the Conference Committee Report on **H.B. 1592**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Montford and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 498**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 498 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **H.B. 498**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Washington and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 1323**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1323 ADOPTED

Senator Washington called from the President's table the Conference Committee Report on **H.B. 1323**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

HOUSE BILL 2012 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. 2012, Relating to the regulation of massage therapists and massage establishments; providing penalties.

There was objection.

Senator Brooks then moved to suspend the regular order of business and take up **H.B. 2012** for consideration at this time.

The motion prevailed by the following vote: Yeas 22, Nays 4, Present-not voting 1.

Yeas: Barrientos, Brooks, Caperton, Edwards, Farabee, Glasgow, Henderson, Jones, Kothmann, Leedom, McFarland, Mauzy, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Nays: Green, Krier, Lyon, Montford.

Present-not voting: Blake.

Absent: Brown, Harris, Howard, Parker.

The bill was read second time.

Senator Krier offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 2012** by renumbering Section 17 as Section 18, and substituting the following language for Section 17:

SECTION 17. Section 5(b), Chapter 229, Acts of the 66th Legislature, 1979 (Article 2372w, Vernon's Texas Civil Statutes), is amended to read as follows;

(b) A person commits an offense if the person knowingly violates a regulation adopted under this Act. An offense under this subsection [~~Violation of a county regulation adopted under this Act~~] is a Class B misdemeanor. A person adjudged guilty of an offense under this subsection shall be punished by:

(1) a fine not exceed $1,000;

(2) confinement in jail for a term not to exceed 180 days; or

(3) both the fine and imprisonment.

The amendment was read and failed of adoption by the following vote: Yeas 8, Nays 16.

Yeas: Brown, Glasgow, Harris, Henderson, Krier, Leedom, Montford, Sharp.

Nays: Barrientos, Blake, Brooks, Green, Jones, Kothmann, Lyon, McFarland, Santiesteban, Sarpalius, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Absent: Caperton, Edwards, Farabee, Howard, Mauzy, Parker, Parmer.

Senator Krier offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 2012** by adding the following Section 18 and renumbering the remaining sections accordingly:

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

SECTION 1. Section 1, Chapter 242, Acts of the 65th Legislature, Regular

Session, 1977 (Article 2372v, Vernon's Texas Civil Statutes), is amended by adding Subdivision (5) to read as follows:

(5) "Person" means an individual, partnership, corporation, or association.

SECTION 2. Section 2(c), Chapter 242, Acts of the 65th Legislature, Regular Session, 1977 (Article 2372v, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) A person commits an offense if the person knowingly violates a regulation adopted under this Act. An offense under this subsection is [~~A person who violates a regulation adopted under this Act commits~~] a Class B misdemeanor. A person adjudged guilty of an offense under this subsection shall be punished by:

(1) a fine not to exceed $1,000;

(2) confinement in jail for a term not to exceed 180 days; or

(3) both the fine and imprisonment.

SECTION 3. Section 3, Chapter 242, Acts of the 65th Legislature, Regular Session, 1977 (Article 2372v, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. (a) Ordinances or regulations adopted under this Act do not apply to a licensed physical therapist, a licensed athletic trainer, a licensed cosmetologist, or a licensed barber performing functions authorized under the license held, nor do ordinances or regulations adopted under this Act apply to a licensed physician or chiropractor, or any individual working under the direct supervision of a licensed physician or chiropractor, while engaged in practicing the healing arts.

(b) Ordinances or regulations adopted under this Act do not apply to the administration of massage for therapeutic purposes in a hospital, nursing home, or other health care facility.

The amendment was read.

On motion of Senator Krier and by unanimous consent, Floor Amendment No. 2 was withdrawn.

The bill was passed to third reading.

HOUSE BILL 2012 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. 2012** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 20, Nays 3.

Yeas: Barrientos, Blake, Brooks, Brown, Glasgow, Green, Harris, Jones, Kothmann, McFarland, Montford, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire.

Nays: Krier, Lyon, Washington.

Absent: Caperton, Edwards, Farabee, Henderson, Howard, Leedom, Mauzy, Parker.

The bill was read third time and was passed.

CONFERENCE COMMITTEE REPORT
SENATE JOINT RESOLUTION 27

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
May 26, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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.J.R. 27** 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.

MONTFORD	RUDD
TRAEGER	KELLER
SHARP	S. JOHNSON
SIMS	GARY THOMPSON
TRUAN	
On the part of the Senate	On the part of the House

A JOINT RESOLUTION

proposing a constitutional amendment to abolish certain county offices in certain counties.

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

SECTION 1. Article XVI, Section 44, of the Texas Constitution is amended to read as follows:

"Section 44. (a) Except as otherwise provided by [~~Subsection (b) and Subsection (b)(1) of~~] this section, the Legislature shall prescribe the duties and provide for the election by the qualified voters of each county in this State, of a County Treasurer and a County Surveyor, who shall have an office at the county seat, and hold their office for four years, and until their successors are qualified; and shall have such compensation as may be provided by law.

"(b) The office of County Treasurer in the counties of Tarrant and Bee is abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Auditor or to the officer who succeeds to the auditor's functions. The

"[~~(b)(1) The~~] office of County Treasurer in the counties of Bexar and Collin are abolished and all the powers, duties, and functions of the office in each of these counties are transferred to the County Clerk. However,

"[~~(c) Provided however, that~~] the office of County Treasurer shall be abolished in the [~~above~~] counties covered by this subsection only after a local election has been held in each county and the proposition 'to abolish the elective office of county treasurer' has passed by a majority of those persons voting in said election.

"(c) The office of County Treasurer in Andrews County is abolished and all the powers, duties, and functions of that office are transferred to the County Auditor of that county or to the officer who succeeds to the auditor's functions.

"(d) The office of County Treasurer in El Paso County is abolished. The Commissioners Court of the county may employ or contract with a qualified person or may designate another county officer to perform any of the functions that would have been performed by the County Treasurer if the office had not been abolished. However, the office of County Treasurer in El Paso County is abolished under this subsection only if, at the statewide election at which this amendment is submitted to the voters, a majority of the voters of El Paso County voting on the question at that election favor the amendment.

"(e) The office of County Surveyor in the counties of Denton, Randall, Collin, Dallas, El Paso, and Henderson is abolished upon the approval of the abolition by

a majority of the qualified voters of the respective county voting on the question at an election that the Commissioners Court of the county may call. If the election is called, the Commissioners Court shall order the ballot at the election to be printed to provide for voting for or against the proposition: 'Abolishing the office of county surveyor. Each qualified voter of the county is entitled to vote in the election. If the office of County Surveyor is abolished under this subsection, the maps, field notes, and other records in the custody of the County Surveyor are transferred to the County Clerk of the county. After abolition, the Commissioners Court may employ or contract with a qualified person to perform any of the functions that would have been performed by the County Surveyor if the office had not been abolished.

"(f) The office of County Treasurer in Andrews County is abolished under Subsection (c) of this section on the adoption of the constitutional amendment that added that subsection and that was proposed by Senate Joint Resolution 27 of the 69th Legislature, Regular Session, 1985. The office of County Treasurer in El Paso County is abolished under Subsection (d) of this section on January 1, 1986, if the conditions of that subsection are met. If that office in El Paso County is not abolished, Subsection (d) of this section expires January 1, 1986. This subsection expires January 2, 1986."

SECTION 2. This proposed amendment shall be submitted to the voters at an election to be held on November 5, 1985. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to provide for:

"(1) the abolition of the office of county treasurer in Andrews County and El Paso County;

"(2) the abolition of the office of county surveyor in Collin, Dallas, Denton, El Paso, Henderson, and Randall Counties."

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

CONFERENCE COMMITTEE ON HOUSE BILL 2036

Senator Glasgow called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2036** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2036** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Glasgow, Chairman; Parker, Caperton, Mauzy and Uribe.

CONFERENCE COMMITTEE REPORT
SENATE BILL 1298

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 1298** 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.

MONTFORD	RUDD
CAPERTON	RILEY
BROWN	KELLER
SHARP	HIGHTOWER
SIMS	LANEY
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the supplemental compensation of the district judges in Lubbock County; amending Section 1, Chapter 290, Acts of the 58th Legislature, Regular Session, 1963 (Article 6819a-34, Vernon's Texas Civil Statutes); repealing Chapter 473, Acts of the 59th Legislature, Regular Session, 1965 (Article 6819a-41, Vernon's Texas Civil Statutes).

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

SECTION 1. Section 1, Chapter 290, Acts of the 58th Legislature, Regular Session, 1963 (Article 6819a-34, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. (a) The Commissioners Court of Lubbock County shall pay to each of the Judges of the 99th, 137th, [~~and~~] 140th, and 237th Judicial Districts, for services rendered in performing administrative duties in Lubbock County, a supplemental salary set by the commissioners court at a sum that is at least [~~the sum of~~] Thirty-five Hundred Dollars ($3,500) annually. The sum provided for herein shall be paid in equal monthly installments out of the general fund or officers salary fund of Lubbock County and the Commissioners Court of Lubbock County shall make proper budget provisions therefor.

"(b) The Commissioners Courts of Lubbock and Crosby Counties shall pay to the Judge of the 72nd Judicial District, for services rendered in performing administrative duties therein, a supplemental salary set by the commissioners courts at a sum that is at least [~~the sum of~~] Thirty-five Hundred Dollars ($3,500) annually. The sum provided for herein shall be paid in equal monthly installments out of the general fund or officers salary fund of Lubbock and Crosby Counties as apportioned by the two (2) counties and the Commissioners Courts of Lubbock and Crosby Counties shall make proper budget provisions therefor."

SECTION 2. Chapter 473, Acts of the 59th Legislature, Regular Session, 1965 (Article 6819a-41, Vernon's Texas Civil Statutes), is repealed.

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

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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. 259; Authorizing changes by the Conference Committee on **H.B. 1843**.

The House has adopted the Conference Committee Report on **S.B. 440** by a non-record vote.

The House has adopted the Conference Committee Report on **H.B. 1743** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 1246** by a non-record vote.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 578**. House Conferees: D. Hudson, Chairman; Messer, Millsap, Jackson, Uher.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

(Senator Brooks in Chair)

CONFERENCE COMMITTEE REPORT
SENATE BILL 212

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 212** 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.

EDWARDS	GARY THOMPSON
PARMER	T. SMITH
SHARP	WILLIS
SARPALIUS	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the governing board, operations, and continuation of the Texas Department on Aging; amending the Human Resources Code, as amended, by amending Subsections (b), (c), (d), and (e) of Section 101.001 and Sections 101.002, 101.003, 101.005, 101.006, 101.008, and 101.021 and by adding Sections 101.0011, 101.0031, 101.0061, 101.0221, and 101.0251.

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

SECTION 1. Subsections (b), (c), (d), and (e), Section 101.001, Human Resources Code, are amended to read as follows:

"(b) The Texas Board on Aging is created as the governing body of the Texas Department on Aging. The board is composed of nine members appointed by the governor with the advice and consent of the senate. Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national

origin of the appointees. To be eligible for appointment to the board, a person must have demonstrated an interest in and knowledge of the problems of aging and must be a member of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse:

"(1) is employed by or participates in the management of a business entity or other organization regulated by or receiving funds from the department;

"(2) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from the department; or

"(3) uses or receives a substantial amount of tangible goods, services, or funds from the department.

"(c) Members of the board serve for staggered terms of six years with the terms of three members expiring on February 1 of each odd-numbered year [~~every two years~~]. A member may be reappointed to the board.

"(d) Members of the board may receive the compensatory per diem authorized by the General Appropriations Act for each day spent engaged in the performance of their official duties. Board members [~~serve without compensation, but~~] are entitled to reimbursement for actual travel expenses incurred in the performance of their duties.

"(e) The board shall hold meetings quarterly and may hold other meetings called by the chairman. The board shall develop and implement policies that will provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board."

SECTION 2. The Human Resources Code, as amended, is amended by amending Sections 101.002, 101.003, 101.005, 101.006, 101.008, and 101.021 and by adding Sections 101.0011, 101.0031, 101.0061, 101.0221, and 101.0251 to read as follows:

"Section 101.0011. REMOVAL OF BOARD MEMBERS. (a) It is a ground for removal from the board if a member:

"(1) does not have at the time of appointment the qualifications required by Subsection (b) of Section 101.001 of this code for appointment to the board;

"(2) does not maintain during the service on the board the qualifications required by Subsection (b) of Section 101.001 for appointment to the board;

"(3) violates a prohibition established by Section 101.0031 of this code;

"(4) is unable to discharge his duties for a substantial portion of the term for which he was appointed because of illness or disability; or

"(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the board.

"(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

"(c) If the executive director has knowledge that a potential ground for removal exists, he shall notify the chairman of the board of the ground. The chairman of the board shall then notify the governor that a potential ground for removal exists.

"Section 101.002. APPLICATION OF SUNSET ACT. The department is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless[~~, and unless~~] continued in existence as provided by that Act the department is abolished and this chapter expires effective September 1, 1997 [~~1985~~].

"Section 101.003. CHAIRMAN OF THE BOARD. (a) The [~~In addition to the nine members of the board, the~~] governor shall designate [~~appoint~~] a chairman of the board from among the members[~~, who shall direct the work of the board~~].

"(b) A member holds the position of chairman at the pleasure [~~The chairman serves during the tenure~~] of the [~~appointing~~] governor.

"[~~(c) The chairman serves without compensation, but is entitled to reimbursement for actual travel expenses incurred in performing the duties of the office.~~]

"Section 101.0031. RESTRICTIONS ON BOARD MEMBERSHIP AND EMPLOYMENT. (a) An officer, employee, or paid consultant of an association that has as its primary interest the provision of services to or other matters relating to the aged may not be a member or employee of the board, nor may a person who cohabits with or is the spouse of an officer, managerial employee, or paid consultant of such an association be a member of the board or an employee of the board grade 17 or over, including exempt employees, according to the position classification schedule under the General Appropriations Act.

"(b) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities on behalf of a provider of services to the aged, may not serve as a member of the board or act as the general counsel to the board."

"Section 101.005. CITIZENS ADVISORY COUNCIL. (a) The Citizens Advisory Council is composed of one member appointed by the [~~chairman of the board, with the consent of the~~] board[;] from each designated area agency on aging. Each council member must also be a member of the local advisory council advising the area agency. Council members [~~serve without compensation, but~~] are entitled to the compensatory per diem authorized by the General Appropriations Act for each day spent engaged [~~reimbursement for actual travel expenses incurred~~] in the performance of their duties as directed by the board and are entitled to the same travel allowance authorized by the General Appropriations Act for state employees.

"(b) The council shall work under the board's direction. The council shall inform policymakers and administrators at the state level of local needs and concerns relating to the aged.

"(c) The council shall meet at least quarterly and may hold other meetings called by the chairman of the board.

"(d) [~~(c)~~] Council members serve for staggered terms of three years with the terms of one-third of the membership expiring on January 31 of each year.

"Section 101.006. DIVISIONS OF THE DEPARTMENT[~~; Personnel~~]. (a) The executive director may establish divisions within the department that he considers necessary for effective administration and the discharge of the department's functions.

"(b) The executive director may allocate and reallocate functions among the divisions.

"Section 101.0061. PERSONNEL MATTERS. (a) [~~(c)~~] The executive director may employ personnel necessary for the administration of the department's duties.

"(b) The executive director or the executive director's designee shall develop an intradepartmental career ladder program, one part of which shall require the intradepartmental posting of all nonentry level positions concurrently with any public posting.

"(c) The executive director or the executive director's designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for department employees must be based on the system established under this subsection.

"(d) The board shall provide to its members and to the department employees as often as is necessary information regarding their qualifications under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

"(e) The board shall develop and implement policies that clearly separate the respective responsibilities of the board and the executive director.

"(f) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement must include:

"(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

"(2) a comprehensive analysis of the agency work force that meets federal and state guidelines;

"(3) procedures by which a determination can be made of significant underuse in the agency work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

"(4) reasonable methods to appropriately address areas of significant underuse in the agency work force of all persons for whom federal or state guidelines encourage a more equitable balance. The policy statement shall be filed with the governor's office before November 1, 1985, cover an annual period, and be updated at least annually. The governor's office shall develop a biennial report to the legislature based on the information submitted. The report may be made separately or as a part of other biennial reports made to the legislature."

"Section 101.008. FINANCES [~~BUDGET~~]. (a) The executive director shall prepare and submit to the board for approval a biennial budget and request for an appropriation by the legislature of funds necessary to carry out the duties of the department. The budget and request must include an estimate of all federal funds to be allocated to the state for the department's purposes.

"(b) The board shall submit the budget and request to the Legislative Budget Board and the governor in the manner prescribed by law.

"(c) The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding year. The form of the annual report and the reporting time shall be that provided in the General Appropriations Act.

"(d) The State Auditor shall audit the financial transactions of the board at least once during each biennium."

"Section 101.021. RULES. (a) The board shall adopt rules governing the functions of the department, including rules that prescribe the policies and procedures followed by the board and the department in the administration of any local services programs, employment programs for the aged, volunteer programs for the aged, or other programs.

"(b) The board by rule or order may delegate its rights, powers, and duties to the executive director."

"Section 101.0221. PUBLIC INTEREST INFORMATION; COMPLAINTS. (a) The board shall prepare information of public interest describing the functions of the board and describing the board's procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the general public and appropriate state agencies.

"(b) The board shall adopt rules establishing methods by which consumers and service recipients can be notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for the notification through inclusion of the information:

"(1) on each registration form, application, or written contract relating to participation in a program that is funded in any part by money derived from the department;

"(2) on a sign that is prominently displayed in the place of business of each person or entity engaging in a program that is funded in any part by money derived from the department; or

"(3) in a bill for service provided by a person or entity engaging in a program that is funded in any part by money derived from the department."

"Section 101.0251. REVIEW OF ADMINISTRATIVE COSTS AND PROGRAMS. (a) The board by rule shall define 'administrative costs' as used in this section. However, if a standard definition of administrative costs is required by law to be used by state agencies, the board shall use that definition.

"(b) To determine the administrative costs incurred by an entity (including an area agency on aging and including an entity that spends money distributed by the department under Section 101.023 or 101.024 of this code) in engaging in a program that is funded in any part by money derived from the department, the department shall request appropriate information from the entity.

"(c) The board shall establish the maximum amount of administrative costs that may be incurred by the entity in engaging in the program.

"(d) The department periodically shall review the actions of entities receiving funds from the department and shall document its review. The review of an entity that spends money distributed under Section 101.024 of this code must include on-site evaluations of the entity and must include the review of documentation, which shall be required by the department, of the services performed by the aged in programs under Section 101.024."

SECTION 3. (a) A person serving a term as a member of the Texas Board on Aging immediately preceding September 1, 1985, is not required to have, during that term or during any period after the expiration of that term but before a successor is appointed and qualified, the public membership qualifications required by Subsection (b), Section 101.001, Human Resources Code, as amended by this Act. The member is not subject to removal for the failure to have the qualifications.

(b) The term of office of a board member that would have expired in August, 1987, under the law as it existed before the effective date of this Act, expires instead on February 1, 1987. The term of office of a board member that would have expired in August, 1989, expires instead on February 1, 1989. The term of office of a board member that would have expired in August, 1991, expires instead on February 1, 1991.

SECTION 4. (a) The person serving as chairman of the Texas Board on Aging immediately preceding September 1, 1985, may continue to serve in that capacity as a non-voting member until one of the following events occurs:

(1) the removal of the chairman from that position at the pleasure of the governor; or

(2) the installation in office of the governor in 1987.

(b) Until one of those events occurs, the former law relating to the appointment and duties of the chairman except as provided above is continued in effect and the amendments made by this Act to Chapter 101, Human Resources Code, concerning those matters are treated as if they do not exist.

SECTION 5. This Act takes effect September 1, 1985.

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 was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 473

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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 **H.B. 473** 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.

MONTFORD	RICHARDSON
FARABEE	TAYLOR
KRIER	WHALEY
McFARLAND	A. SMITH
	RUDD
On the part of the Senate	On the part of the House

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

CONFERENCE COMMITTEE REPORT
HOUSE BILL 402

Senator Truan submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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 **H.B. 402** 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	R. LEWIS
HARRIS	CRISS
WHITMIRE	AGNICH
BLAKE	S. JOHNSON
HENDERSON	
On the part of the Senate	On the part of the House

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Montford and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.J.R. 27**.

CONFERENCE COMMITTEE REPORT ON SENATE JOINT RESOLUTION 27 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **S.J.R. 27**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Montford, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON HOUSE BILL 1594

Senator Mauzy requested the appointment of a Conference Committee to adjust the differences between the two Houses on **H.B. 1594**.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 1594** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Mauzy, Chairman; Whitmire, Barrientos, Brooks and Lyon.

HOUSE CONCURRENT RESOLUTION 259

The Presiding Officer laid before the Senate the following resolution:

H.C.R. 259, Authorizing certain changes by Conference Committee on **H.B. 1843**.

The resolution was read.

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

CONFERENCE COMMITTEE REPORT HOUSE BILL 1843

Senator Traeger submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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 **H.B. 1843** 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.

TRAEGER	OLIVER
MONTFORD	ARNOLD
BROOKS	LEE
FARABEE	MESSER
CAPERTON	BERLANGA
On the part of the Senate	On the part of the House

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

(President in Chair)

SENATE RULE 96(h) SUSPENDED

On motion of Senator Traeger and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 1843**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1843 ADOPTED

Senator Traeger called from the President's table the Conference Committee Report on **H.B. 1843**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

CONFERENCE COMMITTEE REPORT HOUSE BILL 2036

Senator Glasgow submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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 **H.B. 2036** 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.

GLASGOW	CAMPBELL
MAUZY	HALEY
URIBE	EVANS
PARKER	HAMMOND
	COLBERT
On the part of the Senate	On the part of the House

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

CONFERENCE COMMITTEE REPORT SENATE BILL 578

Senator Parker submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 578** 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	HUDSON
BARRIENTOS	JACKSON
TRUAN	MILLSAP
JONES	MESSER
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to higher education finance, including the allocation of funds under Article VII, Section 17, of the Texas Constitution and the effective date of previously authorized tuition increases.

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

SECTION 1. Title 3, Education Code, as amended, is amended by adding a new Chapter 62 to read as follows:

"Chapter 62. DIVISION OF CONSTITUTIONALLY APPROPRIATED FUNDS AMONG CERTAIN INSTITUTIONS OF HIGHER EDUCATION

"Subchapter A. GENERAL PROVISIONS

"Section 62.001. SHORT TITLE. This chapter may be cited as 'The Excellence in Higher Education Act' of 1985.

"Section 62.002. PURPOSE. Through equitable allocation of the annual appropriation mandated by Article VII, Section 17(a), of the Constitution of Texas, the purpose of this chapter is to provide to the governing boards of the institutions and agencies of higher education eligible to participate in the distribution of funds pursuant to Article VII, Section 17, of the Constitution of Texas, the means to create and maintain a degree of excellence at the respective institutions and agencies of higher education that is above and apart from the normal appropriative formulas established by the Coordinating Board, Texas College and University System.

"Section 62.003. DEFINITIONS. In this chapter:

"(1) 'Eligible institution' means the eligible agencies and institutions of higher education listed in Article VII, Section 17(b), of the Constitution of Texas, and any institution or agency of higher education that is later made eligible to participate in the disbursement of funds pursuant to Article VII, Section 17(c), of the Constitution of Texas.

"(2) 'Governing board' means the board of regents or other state governmental body to which an eligible agency or institution is assigned for governance by the Texas Constitution or by the laws of the State of Texas.

"SUBCHAPTER B. AMOUNTS ALLOCATED BY EQUITABLE ALLOCATION FORMULA

"Section 62.021. ALLOCATIONS. (a) Each fiscal year, an eligible institution is entitled to receive an amount allocated in accordance with this section from funds appropriated by Article VII, Section 17(a), of the Constitution of Texas. The comptroller of public accounts shall distribute funds allocated under this subsection only on presentation of a claim and issuance of a warrant in accordance with Article 4357, Revised Statutes. The Comptroller may not issue a warrant from any funds allocated under this subsection before the delivery of goods or services described in Section 17, Article VII, Texas Constitution, except for the payment of principal or interest on bonds or notes. The allocation of funds under this subsection is made in accordance with an equitable formula consisting of the following elements: space deficit, facilities condition, institutional complexity, separate allocation for medical units, and additional allocation for compliance with the Texas Desegregation Plan. The amounts allocated by such formula are as follows:

$ 3,253,087 East Texas State University including East Texas State University at Texarkana;
$ 7,172,517 Lamar University including Lamar University at Orange and Lamar University at Port Arthur;
$ 1,693,414 Midwestern State University;
$10,949,820 North Texas State University;
$ 3,106,426 Pan American University including Pan American University at Brownsville;
$ 5,146,404 Stephen F. Austin State University;
$ 2,166,667 Texas College of Osteopathic Medicine;
$19,461,584 Texas State University System Administration and the following component institutions:
Angelo State University;
Sam Houston State University;
Southwest Texas State University;
Sul Ross State University including Uvalde
Study Center;
$ 6,849,730 Texas Southern University (includes allocation of $2,700,000 for compliance with Texas Desegregation Plan);
$10,696,291 Texas Tech University;
$ 4,333,333 Texas Tech University Health Sciences Center;
$ 3,586,150 Texas Woman's University;
$15,717,588 University of Houston System Administration and the following component institutions:
University of Houston - University Park;
University of Houston - Victoria;
University of Houston - Clear Lake;
University of Houston - Downtown;
$ 3,603,059 University System of South Texas System Administration and the following component institutions:
Corpus Christi State University;
Laredo State University;
Texas A&I University; and
$ 2,263,930 West Texas State University.

"(b) Each governing board participating in the distribution of funds as described in this section may expend such funds without limitation, and as such governing board may decide in its sole discretion, for any and all purposes described in Article VII, Section 17, of the Constitution of Texas; provided, however, that such funds may not be expended without the prior approval of the legislature or the approval, review, or endorsement, as applicable, of the Coordinating Board, Texas College and University System, provided that review and approval of major repair and rehabilitation shall apply only to projects in excess of $300,000; and provided further that any land acquisition project proposed for Coordinating Board endorsement within three months of a legislative session shall be automatically referred to the legislature for consideration.

"(c) Each governing board participating in the distribution of funds as described in this section may issue bonds and notes as authorized in Article VII, Section 17, of the Constitution of Texas.

"(d) All funds appropriated by Article VII, Section 17, of the Constitution of Texas, but not expended during the fiscal year of appropriation, shall be carried forward and reappropriated for each of the succeeding fiscal years until expended by the governing boards of eligible institutions for the purposes described in Article VII, Section 17, of the Constitution of Texas.

"Section 62.022. ADJUSTMENT OF ALLOCATION FORMULA. (a) Prior to the convening of the regular session of the Texas Legislature in 1989,

the Coordinating Board, Texas College and University System, will conduct, with the full participation of the eligible institutions, a study and present recommendations to the Legislative Budget Board and to the Texas House and Texas Senate standing committees having cognizance over legislation related to higher education as to whether and, if so, how, the equitable allocation formula should be adjusted for the five-year period beginning September 1, 1990.

"(b) The legislature shall approve, modify and approve, or reject the recommendations of the Coordinating Board.

"(c) If, prior to September 1, 1990, the Texas Legislature has failed to act on a recommendation for adjustment in the equitable allocation formula, the 10-year allocation provided for in Subsection (a), Section 62.021, of this Code shall continue until the end of the 10-year period.

"(d) No adjustment shall be made in the allocation formula that will prevent payment of both the principal and interest on outstanding bonds and notes sold pursuant to Section 17(e), Article VII, Texas Constitution."

"(e) Prior to the convening of the regular session of the Texas Legislature in 1995, the Coordinating Board, Texas College and University System, will conduct, with the full participation of the eligible institutions, a study and present recommendations to the Legislative Budget Board and to the Texas House and Texas Senate standing committees having cognizance over legislation related to higher education as to the allocation of the funds appropriated by Section 17(a), Article VII, Texas Constitution, for the 10-year period beginning September 1, 1995.

"Section 62.023. SEVERABILITY. If any provision of this chapter or the application thereof under any circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable."

SECTION 2. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.075 to read as follows:

"Section 61.075. POWERS UNAFFECTED BY CERTAIN CONSTITUTIONAL AMENDMENT. The powers of the board and the legislature, including the powers granted under Section 61.058 of this code, are not limited by the constitutional amendments proposed by **H.J.R No. 19**, 68th Legislature, Regular Session, 1983, and adopted by the voters except to the extent those powers are specifically limited by those constitutional provisions."

SECTION 3. Notwithstanding the failure of **H.B. 1147**, Acts of the 69th Legislature, Regular Session, to receive the necessary number of votes required by Article III, Section 39, of the Texas Constitution, concerning the effective date of laws, for that bill to have immediate effect, **H.B. 1147** applies beginning with the 1985-1986 academic school year to tuition for medical, dental, and veterinary medicine students, as provided in each institution's catalogue, and applies beginning with the fall semester, 1985, to tuition collected from all other students.

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 was filed with the Secretary of the Senate.

VOTE RECONSIDERED ON ADOPTION OF CONFERENCE COMMITTEE REPORT ON SENATE BILL 1002

On motion of Senator Harris and by unanimous consent, the Senate reconsidered the vote by which the Conference Committee Report on **S.B. 1002** was adopted.

Question - Shall the Conference Committee Report be adopted?

CONFERENCE COMMITTEE REPORT SENATE BILL 1002

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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. 1002** 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.

HARRIS	WALLACE
HENDERSON	SCHLUETER
LEEDOM	C. HARRIS
HOWARD	CAVAZOS
BLAKE	DANBURG
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED AN ACT

relating to the powers, duties, and funding of certain state agencies and local governmental entities that perform functions related to the commemoration of the Texas sesquicentennial; prohibiting certain acts; making a tax exemption; making appropriations; amending Chapter 84, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 6145-11, Vernon's Texas Civil Statutes), by amending Subsection (e) of Section 2 and Section 7 and adding Section 7A and Subsection (d) to Section 4; amending Section 1, Chapter 548, Acts of the 67th Legislature, Regular Session, 1981 (Article 6145-11a, Vernon's Texas Civil Statutes); adding Articles 6145-11b and 6145-14a to Title 106, Revised Statutes; adding Section 151.334 to the Tax Code; and amending Article 156.251, Tax Code.

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

SECTION 1. Subsection (e), Section 2, Chapter 84, Acts of the 66th Legislature, Regular Session, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), is amended to read as follows:

"(e) An ex officio member <u>or a member appointed by the speaker of the house of representatives or by the lieutenant governor</u> may designate a representative to serve in the member's absence. A designated representative must be an officer or employee of the member's agency or organization<u>, and for the executive committee may be another member of the board</u>. The designated representative has all the powers and duties of the ex officio <u>or legislative</u> member."

SECTION 2. Section 4, Chapter 84, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 6145-11, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

"(d) There shall be created from the membership of the commission an executive committee composed of nine members: the chairman of the commission; two members designated by the governor from the governor's appointees; two members designated by the speaker of the house of representatives from the speaker's appointees; two members designated by the lieutenant governor from the lieutenant governor's appointees; the executive head of the Texas Tourist Development Agency; and the executive head of the Texas Commission on the Arts. Subject to disapproval by the commission, the executive committee may act on behalf of the commission for all purposes when the commission shall not be meeting, and shall have oversight and authority over all the activities of the commission and its employees in the full commission's absence."

SECTION 3. Chapter 84, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 6145-11, Vernon's Texas Civil Statutes), is amended by amending Section 7 and adding Section 7A to read as follows:

"Section 7. DUTIES. The commission shall:

"(1) encourage individuals, private organizations, and local governmental bodies to organize activities celebrating the state's sesquicentennial;

"(2) help individuals, private organizations, and local governmental bodies that organize sesquicentennial activities to coordinate the activities;

"(3) gather and disseminate information to the general public about sesquicentennial activities conducted in the state;

"(4) develop standards for sesquicentennial activities organized by individuals, private organizations, and local governmental bodies and sanction activities that comply with the standards;

"(5) invite national and international dignitaries to attend sesquicentennial activities conducted in the state;

"(6) encourage persons living outside the state to attend sesquicentennial activities conducted in the state;

"(7) develop and use an official state sesquicentennial [a] logo and register such logo in state and federal offices as a service mark or trademark and secure copyright on such logo and any other printed, visual, graphic, audio, or audiovisual materials developed hereunder [~~to be used by the commission and permit other persons to use the logo if the commission considers the use appropriate~~]; and

"(8) adopt rules to:

"(A) sanction official sponsors and official commemorative or promotional products; and

"(B) exclusively license the use of the official state sesquicentennial logo by official sponsors, including business and corporate sponsors, and producers of official commemorative or promotional products, in exchange for either a fee or royalties or both [~~sanction and may sell products, such as commemorative calendar or flag, commemorating the state's sesquicentennial~~].

"Section 7A. PROHIBITION. (a) An individual, company, association, or corporation that is not sanctioned or licensed by the commission may not use the official sesquicentennial logo in whole or in part, represent itself as a sponsor of the sesquicentennial, market a product as a commemorative or promotional product of the sesquicentennial or further violate any other provision of this Act.

"(b) No sanctioned individual, private organization, local sesquicentennial committee, or governmental body may grant or license any sesquicentennial sponsorship or use the official state sesquicentennial logo in whole or in part without the express approval of the Texas 1986 Sesquicentennial Commission.

"(c) The attorney general on behalf of the commission or a private lawyer approved by the attorney general is authorized to institute civil action against any violation of this Act and in addition to securing an injunction to prevent further violations may also recover actual damages for any violation and at the discretion

of the court may recover statutory damages up to $5,000 per violation and attorney fees are obtainable."

SECTION 4. Section 1, Chapter 548, Acts of the 67th Legislature, Regular Session, 1981 (Article 6145-11a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. COUNTY SESQUICENTENNIAL COMMITTEES [~~COMMEMORATIVE MEDALS~~]. (a) The commissioners court of a county may appoint a committee to organize activities celebrating the state's sesquicentennial.

"(b) The commissioners court may appropriate funds from the general fund of the county that the committee may use to perform its functions.

"(c) The committee may accept donations, on behalf of the county, and use the donations to perform its functions.

"(d) The committee shall make quarterly reports of its activities to the commissioners court.

"(e) This Act expires on September 1, 1987 [~~The state treasurer may coin gold alloy medals commemorating the Texas sesquicentennial in one, one-half, one-fourth, and one-tenth of an ounce weights.~~

"[~~(b) The state treasurer shall sell any commemorative medals coined under this Act to the public at prices that are calculated to recover at least the costs of making and selling the medals.~~

"[~~(c) Sales of commemorative medals under this Act are exempt from state and local sales tax.~~

"[~~(d) If the state treasurer determines to coin commemorative medals under this Act, the Texas 1986 Sesquicentennial Commission shall conduct a contest to determine the design of the medals.~~

"[~~(e) In no event shall the sale issuance price of coined commemorative medals under this Act be less than the cost of production plus the cost of the gold and the intrinsic value~~]."

SECTION 5. Title 106, Revised Statutes, is amended by adding Article 6145-11b to read as follows:

"Article 6145-11b. SESQUICENTENNIAL FUND

"Section 1. Amounts received from the following sources shall be deposited in a special fund in the State Treasury to be known as the sesquicentennial fund and are appropriated for the purposes contained herein:

"(1) licensing fees and royalties authorized by Paragraph (B), Subdivision (8), Section 7, Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes); and

"(2) proceeds from the sale of medallions designated by the Texas 1986 Sesquicentennial Commission as lone stars under Article 6145-14a, Revised Statutes.

"Section 2. After the expiration of Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), the comptroller of public accounts shall collect proceeds from royalties due under licenses granted by the Texas 1986 Sesquicentennial Commission.

"Section 3. As amounts from licensing fees, royalties, and the sale of medallions designated as lone stars by the Texas 1986 Sesquicentennial Commission are deposited in the fund:

"(1) the State Treasurer shall allocate the amounts equally between an account in the fund that may be used only by the Texas Tourist Development Agency and an account in the fund that may be used only by the Texas Commission on the Arts, until the account of the Texas Commission on the Arts has received $1,261,244; and

"(2) after the account for the Texas Commission on the Arts has received $1,261,244, the State Treasurer shall allocate the amounts only to the account of

the Texas Tourist Development Agency until that account has received $2,291,996; and

"(3) after the account for the Texas Tourist Development Agency has received $2,291,996, the State Treasurer shall allocate the amounts equally among the account of the Texas Tourist Development Agency, the account of the Texas Commission on the Arts, and an account in the fund that may be used only by the Texas 1986 Sesquicentennial Commission, until the account of the Texas Commission on the Arts has received a total of $7,095,846 from amounts allocated under this subsection and Subdivision (1) of this section;

"(4) after the account for the Texas Commission on the Arts has received a total of $7,095,846 from amounts allocated under Subdivisions (1) and (3) of this section, the State Treasurer shall allocate the amounts equally between the accounts of the Texas Tourist Development Agency and the Texas 1986 Sesquicentennial Commission until the account of the Texas 1986 Sesquicentennial Commission has received a total of $10,000,000 from amounts allocated under this subdivision and Subdivision (3) of this section or until January 31, 1987, whichever shall first occur.

"(5) after the Texas 1986 Sesquicentennial Commission has received a total of $10,000,000 from the amounts allocated under Subdivisions (3) and (4) of this section, the State Treasurer shall allocate the amounts only to the account of the Texas Tourist Development Agency until the account of the Texas Tourist Development Agency has received a total of $15,145,604; and

"(6) after the Texas Tourist Development Agency has received a total of $15,145,604 from amounts allocated under this section, the State Treasurer shall allocate the amounts only to the account of the State Preservation Board.

"Section 4. (a) Money in the fund allocated to the Texas Tourist Development Agency under Subdivisions (1) and (2) of Section 3 of this article shall be used to publish an official tour guide of the sesquicentennial or for promotional activities for the Texas 1986 Sesquicentennial Commission.

"(b) Money in the fund allocated to the Texas Tourist Development Agency under Subdivisions (3), (4), and (5) of Section 3 of this article shall be used to advertise and promote the sesquicentennial both in and out of the state and for other activities as provided by law.

"(c) Money in the fund allocated to the Texas Commission on the Arts under Section 3 of this article shall be used for funding and supporting sesquicentennial projects and programs and to perform any of the functions of the commission.

"(d) Not less than one-half the money in the fund allocated to the Texas 1986 Sesquicentennial Commission shall be distributed to local official sesquicentennial committees sanctioned by the commission according to procedures adopted by the commission.

"(e) Money in the fund allocated to the Texas 1986 Sesquicentennial Commission that is not distributed to local official sesquicentennial committees under Subsection (d) of this section or used to reimburse the comptroller of public accounts for audit services provided under Section 5 of this article shall be used to advertise and promote the sesquicentennial both in and out of state through interagency contracts with the Texas Tourist Development Agency.

"Section 5. The Texas 1986 Sesquicentennial Commission may audit any official sesquicentennial licensee or product manufacturer. At the request of the commission, the comptroller of public accounts shall perform the audit. The comptroller of public accounts shall be reimbursed for services provided under this section from money provided for that purpose under Subsection (e) of Section 4 of this article."

SECTION 6. Title 106, Revised Statutes, is amended by adding Article 6145-14a to read as follows:

"Article 6145-14a. LONE STAR MEDALLIONS. (a) The Texas 1986 Sesquicentennial Commission shall designate a one ounce silver lone star medallion

and one, one-half, one-fourth, and one-tenth ounce gold lone star medallions as official commemorative medallions of the sesquicentennial.

"(b) The board shall contract for the production, marketing, and distribution of the medallions.

"(c) The board shall deposit the proceeds from the sale of medallions to the credit of the sesquicentennial fund."

SECTION 7. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.334 to read as follows:

"Section 151.334. LONE STAR MEDALLIONS. Medallions designated as lone stars by the Texas 1986 Sesquicentennial Commission under Article 6145-14a, Revised Statutes, are exempted from the taxes imposed by this chapter."

SECTION 8. Article 156.251, Tax Code, is amended to read as follows:

"Article 156.251. REVENUE DEPOSITED IN GENERAL REVENUE FUND. (a) The revenue from the tax imposed by this chapter shall be deposited in the state treasury to the credit of the general revenue fund.

"(b) For the purposes of **S.B. 1002**, 69th Legislature, Regular Session, the comptroller of public accounts shall prepare, no later than September 18, 1985, a forecast of hotel and motel tax revenue for the first five three-month periods of the 1986-1987 biennium. The total of such forecasts shall not exceed the January, 1985, revenue estimates for hotel and motel tax revenue of $70,751,000 for Fiscal Year 1986 and $76,057,000 for Fiscal Year 1987. Amounts actually collected from the hotel and motel tax for Fiscal Year 1986 in excess of the estimate, not to exceed $5,000,000, are hereby appropriated for the biennium ending August 31, 1987, to the Texas Tourist Development Agency for media advertising and other marketing activities. The following or some similar procedure shall be used by the comptroller of public accounts in calculating the quarterly transfers:

"(i) if at the end of the second three-month period, actual hotel and motel tax receipts for the first quarter exceed the estimate previously established for that quarter and the actual receipts for the second quarter are at least equal to the sum of the estimate for the second quarter and any amounts received in the first quarter in excess of the estimate for that quarter, then there is hereby appropriated as of March 2, 1986, from the General Revenue Fund to the Texas Tourist Development Agency the amount by which receipts for the first quarter exceed the estimate for that quarter;

"(ii) if at the end of the third three-month period, actual hotel and motel tax receipts for the second quarter exceed the estimate previously established for that quarter and the actual receipts for the third quarter are at least equal to the sum of the estimate for the third quarter and any amounts received in the second quarter in excess of the estimate for that quarter, then there is hereby appropriated as of June 2, 1986, from the General Revenue Fund to the Texas Tourist Development Agency the amount by which receipts for the second quarter exceed the estimate for that quarter;

"(iii) if at the end of the fourth three-month period, actual hotel and motel tax receipts for the third quarter exceed the estimate previously established for that quarter and the actual receipts for the fourth quarter are at least equal to the sum of the estimate for the fourth quarter and any amounts received in the third quarter in excess of the estimate for that quarter, then there is hereby appropriated as of September 2, 1986, from the General Revenue Fund to the Texas Tourist Development Agency the amount by which receipts for the third quarter exceed the estimate for that quarter;

"(iv) if at the end of the fifth three-month period, actual hotel and motel tax receipts for the fourth quarter exceed the estimate previously established for that quarter and the actual receipts for the fifth quarter are at least equal to the sum of the estimate for the fifth quarter and any amounts received in the fourth quarter in

excess of the estimate for that quarter, then there is hereby appropriated as of December 2, 1986, from the General Revenue Fund to the Texas Tourist Development Agency the amount by which receipts for the fourth quarter exceed the estimate for that quarter.

"(c) Except with respect to appropriations authority for the 1987 fiscal year, Subsection (b) expires as of December 31, 1986."

SECTION 9. EFFECT OF PARTIAL INVALIDITY. (a) The legislature declares that it would not have enacted this Act without the inclusion of Sections 1 and 2 of this Act to the extent those sections provide for broad representation on the commission and for executive committee management of commission affairs between commission meetings. If the appointments provided by this Act are for any reason held invalid by a final judgment of a court of competent jurisdiction, the remainder of this Act and Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), are void.

(b) Except as provided by Subsection (a) of this section, this Act is severable as provided by Chapter 45, Acts of the 63rd Legislature, Regular Session, 1973 (Article 11a, Vernon's Texas Civil Statutes).

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.

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 1002**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1002 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **S.B. 1002**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Harris, the Conference Committee Report was again adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Edwards and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 212**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 212 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **S.B. 212**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Montford and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 473**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 473 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **H.B. 473**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Truan and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 402**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 402 ADOPTED

Senator Truan called from the President's table the Conference Committee Report on **H.B. 402**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

RECORD OF VOTE

Senator Sharp asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Sarpalius and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 399**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 399 ADOPTED

Senator Sarpalius called from the President's table the Conference Committee Report on **S.B. 399**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Sarpalius, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 578**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 578 ADOPTED

Senator Jones called from the President's table the Conference Committee Report on **S.B. 578**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Jones, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Montford and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **S.B. 1298**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1298 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **S.B. 1298**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 2036**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2036 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **H.B. 2036**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

On motion of Senator Glasgow, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

HOUSE BILL 919 ON SECOND READING

On motion of Senator Edwards 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. 919, Relating to the application of the Certificate of Title Act to certain vehicles.

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

HOUSE BILL 919 ON THIRD READING

Senator Edwards moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 919** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

HOUSE BILL 626 ON SECOND READING

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

H.B. 626, Relating to offenses involving sexual conduct or sexual performance by a child, revising the definitions and elements of certain offenses, and creating an offense for the possession of certain material that depicts a child engaged in sexual conduct.

There was objection.

Senator Brown then moved to suspend the regular order of business and take up **H.B. 626** for consideration at this time.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Glasgow, Green, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire.

Nays: Farabee, Washington.

Absent: Parker.

The bill was read second time.

Senator McFarland offered the following amendment to the bill:

Amend **H.B. 626**, SECTION 2, Subsection (d) by deleting the words "felony of the third degree" and adding "Class A misdemeanor".

The amendment was read and was adopted.

On motion of Senator Brown 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 626 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 626** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Glasgow, Green, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Whitmire.

Nays: Farabee, Washington.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Washington asked to be recorded as voting "Nay" on the final passage of the bill.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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:

The House has adopted the Conference Committee Report on **S.B. 1002** by a record vote of 140 ayes, 3 noes and 1 present not voting.

The House has adopted the Conference Committee Report on **S.B. 192** by a record vote of 144 ayes, 0 noes, 1 present not voting.

The House has adopted the Conference Committee Report on **S.B. 290** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 1298** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 725** by a record vote of 135 ayes, 3 noes and 1 present not voting.

The House has adopted the Conference Committee Report on **S.J.R. 27** by a record vote of 139 ayes, 5 noes and 1 present not voting.

The House has adopted the Conference Committee Report on **H.B. 1811** by a record vote of 135 ayes, 0 noes and 2 present not voting.

The House has adopted the Conference Committee Report on **S.J.R. 14** by a record vote of 124 ayes, 19 noes and 1 present not voting.

The House has concurred in Senate amendments to the following House bills by a non-record vote.

H.B. 2359
H.B. 2358
H.B. 1985
H.B. 1825
H.B. 256
H.B. 579
H.B. 2161

The amendments to **H.B. 1594** were not germane and are returned to the Senate for further consideration.

H.C.R. 260, Permitting the conferees on **S.B. 738** to add text.

S.C.R. 188, A clerical correction in **H.B. 20**.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 824 ON SECOND READING

On motion of Senator Lyon 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. 824, Relating to the authority of a peace officer to make warrantless arrests outside his jurisdiction and to his duties after making the arrest.

The bill was read second time.

Senator Lyon offered the following committee amendment to the bill:

H.B. 824 is hereby amended as follows:

1) by inserting the word "immediately" before the word "notify" and after the word "arrest," on page 2, line 1 of the House Engrossment;

2) by inserting the words "without unnecessary delay," before the word "take" on page 2, line 4 of the House Engrossment.

The committee amendment was read and was adopted.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 824**, Article 14.03, Code of Criminal Procedure Art. 14.03, Section 2, Subsection (b) as follows:

(b) After the word 'officer' and before the word 'who', add, employed by a governmental entity.

The amendment was read and was adopted.

On motion of Senator Lyon 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 824 ON THIRD READING

Senator Lyon moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 824** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

HOUSE BILL 1929 ON SECOND READING

On motion of Senator Barrientos 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. 1929, Relating to the offenses of possession or use of an abusable glue, aerosol paint, or substance containing a volatile chemical.

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

HOUSE BILL 1929 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1929** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

HOUSE BILL 1788 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:

H.B. 1788, Relating to the hours of labor under certain contracts made by the state or a political subdivision.

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

HOUSE BILL 1788 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 **H.B. 1788** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed to third reading by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1585 ON SECOND READING

On motion of Senator Caperton 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. 1585, Relating to the review and abolition of certain state agencies under the Texas Sunset Act.

The bill was read second time.

Senator Caperton offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 1585** as follows:

On page 22, delete Section 39 on lines 15 through 22 and substitute the following:

SECTION 39. Section 3.03, Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.03 SUNSET PROVISION. The Commission on Human Rights is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless [~~, and unless~~] continued in existence as provided by that Act, the commission is abolished [~~effective~~] September 1, 1989. [~~1987~~]

The committee amendment was read and was adopted.

Senator Caperton offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **H.B. 1585** by adding the following SECTION as SECTION 53 and renumbering the remaining SECTIONS:

SECTION 53. Sec. 1a, Article 6252-6b, Vernon's Texas Civil Statutes is amended to read as follows:

Sec. 1a. The Texas Surplus Property Agency is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the agency is abolished, and this Act expires effective September 1, 1989 [~~1987~~].

The committee amendment was read and was adopted.

Senator Caperton offered the following committee amendment to the bill:

Committee Amendment No. 3

Amend **H.B. 1585** by adding the following as SECTION 54 and renumbering the remaining SECTIONS:

SECTION 54. Section 50.004, Subsection (n), Human Resources Code, is amended to read as follows:

(n) The council is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the council is abolished and this section expires effective September 1, 1989 [~~1987~~]. If the council is continued in existence beyond that date, subsequent sunset provisions should be made to conform with those of the Texas Department of Human Resources.

The committee amendment was read and was adopted.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1585** as follows:

(1) Insert a new section appropriately numbered to read as follows:

SECTION ___. If **H.B. 2091**, 69th Legislature, Regular Session, 1985, does not become law, Section 1.03, Article 4414b, Revised Statutes, is amended to read as follows:

Sec. 1.03. APPLICATION OF SUNSET ACT. The Texas Board of Health and The Department of Health are subject to the Texas Sunset Act [~~, as amended~~] (Article 5429k, Vernon's Texas Civil Statuts). Unless [~~, and unless~~] continued in existence as provided by that Act, the board and the department are abolished [~~effective~~] September 1, 1987 [~~1985~~].

(2) Renumber the following sections accordingly.

The amendment was read and was adopted.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 1585** by adding the following Section ___ and renumbering existing Section ___ and all subsequent sections accordingly:

Subsection (d), Section 4, Article 4413(29bb), Vernon's Texas Civil Statutes, is amended to read as follows:

(d) The Texas Board of Private Investigators and Private Security Agencies is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires (~~effective~~) September 1, 1987 (~~1993~~).

The amendment was read and was adopted.

On motion of Senator Caperton 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 1585 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1585** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

HOUSE JOINT RESOLUTION 73 ON SECOND READING

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

H.J.R. 73, Proposing a constitutional amendment to allow political subdivisions to purchase certain mutual insurance.

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

HOUSE JOINT RESOLUTION 73 ON THIRD READING

Senator Montford 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. 73** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE CONCURRENT RESOLUTION 184

The President laid before the Senate the following resolution:

H.C.R. 184, Authorizing placement of a Sesquicentennial marker on the Capitol grounds.

The resolution was read second time.

On motion of Senator Brooks, the resolution was adopted.

HOUSE CONCURRENT RESOLUTION 173

The President laid before the Senate the following resolution:

H.C.R. 173, memorializing Congress to extend renewable energy and conservation tax incentives.

The resolution was read second time.

On motion of Senator Lyon, the resolution was adopted.

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the adoption of the resolution.

COMMITTEE SUBSTITUTE HOUSE BILL 408 ON THIRD READING

On motion of Senator Uribe 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. 408, Relating to removal, suspension or expulsion of a public school student; to discipline management in public schools; and to excused absence of certain public school students.

The bill was read third time.

Senator Uribe offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 408** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 11.35, Education Code, is amended to read as follows:

"Section 11.35. HIGH SCHOOL EQUIVALENCY EXAMINATIONS. The State Board of Education shall provide for the administration of high school equivalency examinations. Any person who is exempt from compulsory school attendance because of attained age and [~~over the age of 17~~] who does not have a high school diploma may take the examination in accordance with the rules and regulations promulgated by the board."

SECTION 2. Section 21.724, Education Code, is amended by amending Subsection (a), (b), and (c) and adding Subsection (e) to read as follows:

"(a) The [~~Using guidelines established by the~~] State Board of Education[~~, a school district~~] shall select and adopt educational achievement tests to be used for [~~develop for board review~~] advanced placement in [~~examinations for~~] each elementary [~~primary~~] school grade level and for secondary school academic subjects. The board shall develop tests for those secondary school academic subject areas for which no available tests are judged to be appropriate for measuring mastery of the specific objectives taught in that subject area. Specific criteria for mastery of each test shall be established by the board. [~~The guidelines must provide for the examinations to thoroughly test comprehension of the information presented in the applicable grade level or subject. The board shall approve advanced placement examinations that satisfy board guidelines.~~]

"(b) A student in an elementary [~~a primary~~] grade level shall be given credit for a grade level and advanced one grade level on the basis of a board-approved advanced placement examination if:

"(1) the student scores at [~~in the 90th percentile~~] or above the level considered satisfactory under the rules of the State Board of Education on each section of the examination:

"(2) a school district representative recommends that the student be advanced; and

"(3) the student's parent or guardian gives written approval of the advancement.

"(c) A student in grade level six or above shall be given credit for a subject on the basis of a board-approved advanced placement examination in the subject if the student scores at [~~in the 90th percentile~~] or above the level considered satisfactory under the rules of the State Board of Education on the examination. If a student is given credit in a subject on the basis of an examination, the examination score shall be entered on the student's transcript."

"(e) The State Board of Education shall adopt rules for the implementation of this section, including rules for phasing in the grade levels for which and subjects in which the advanced placement tests must be offered."

SECTION 3. Section 21.911, Education Code, is amended to read as follows:

"Section 21.911 EVALUATING [~~TESTING~~] PUPILS FOR ASSIGNMENT TO SPECIAL EDUCATION CLASSES. Before any action is taken with respect to the initial placement of a handicapped student in a special education program, a full and individual evaluation of the student's educational needs shall be conducted using appropriate assessment procedures in the native language of the student or another appropriate mode of communication. [~~(a) Before a pupil is assigned to a special education class he shall be given verbal or nonverbal individual intelligence tests in the primary home language in which the pupil is most fluent and has the best speaking ability and capacity to understand. The tests shall be selected from a list approved by the State Board of Education.~~

"[~~(b) No school district may assign a pupil to a special education class on the basis of intelligence tests administered in a language other than the primary home language of the child.~~]"

SECTION 4. Section 21.103, Education Code, is amended by adding Subsection (d), (e), and (f) to read as follows:

"(d) Tutorials may not be conducted during any time students are in regularly scheduled classes unless authorized by the State Board of Education.

"(e) In staffing tutorials outside of the regular school day, a school district may use a certified education employee only if the employee voluntarily applies to participate in the program. If the tutorial is conducted outside of the regular school day, and requires the teacher to be at the school building for more than eight hours, the district shall pay the certified employee on an hourly basis at a rate that is not less than the hourly equivalent of the minimum monthly salary for a teacher with a bachelor's degree and no teaching experience under Section 16.056 of this code. A certified employee's participation in tutorials may not be considered as a factor in assigning the employee to a career ladder level.

"(f) The Central Education Agency shall develop and distribute to each school district recommendations for tutorials that allow the district to staff tutorial services with individuals who are not certified education employees but are approved for that purpose by the local board of trustees. The recommendations must include suggestions concerning tutorial tasks that can be performed by teacher education students who are required to complete field experience requirements for their teacher education programs or by school or community groups."

SECTION 5. Section 21.301, Education Code, is revised to read as follows:

"Section 21.301. SUSPENSION OF STUDENTS: REMOVAL TO ALTERNATIVE EDUCATION PROGRAMS. (a) In accordance with rules adopted by the State Board of Education, the board of trustees of a school district or the board's designee may, as provided by this section, suspend a student for a period not to exceed six school days or remove a student to an alternative education program. A suspension for more than six school days within a semester is considered an expulsion and may occur only as provided by Section 21.3011 of this code.

"(b) Before it may suspend a student or remove a student to an alternative education program, the board or the board's designee must determine:

"(1) that the student's presence in the regular classroom program or at the home campus presents a danger of physical harm to the student or to other individuals; or

"(2) that the student has engaged in serious or persistent misbehavior that violates the district's previously communicated written standards of student conduct.

"(c) Before suspending a student, the board or its designee shall attempt reasonable alternatives, including a variety of discipline management techniques.

"(d) Except as provided by this subsection, removal to a supervised alternative education setting may not extend beyond the end of the semester during which the conduct that directly led to the removal occurred. If the conduct occurred during the final six-week reporting period of a semester, the removal may extend beyond the end of that semester but may not extend beyond the end of the next semester. The board may permit the student to remain in the alternative program for an additional period agreed on by the student, the student's parent or guardian, the supervisor of the alternative program, the principal of the student's home school if they agree that the additional period would best serve the student's educational interest. This subsection does not apply to the placement of a handicapped student in an alternative program in accordance with the decision on an admission, review, and dismissal committee.

"(e) If the decision to remove a student to an alternative education program is made by the board's designee, that decision may be appealed to the board. The

student may be removed to the alternative education program pending appeal to the board.

"(f) A student's parent or guardian is entitled to notice as soon as reasonably possible of a suspension or removal of a student to an alternative education program and a reasonable opportunity to participate in a proceeding before the board under this section. If the board's designee suspends or removes a student to an alternative education program for three or more consecutive school days or five or more cumlative school days within a semester, the designee shall encourage the student's parent or guardian to attend a conference to discuss the designee's action and/or the student's misbehavior. Any decision of the board under this section is final and may not be appealed.

"(g) The board or the board's designee shall provide for the continuing education of a student who has been removed to an alternative education program. A district shall provide for a variety of alternative education programs such as:

"(1) in-school suspension;

"(2) transfer to a different campus;

"(3) transfer to a school-community guidance center; or

"(4) transfer to a community-based alternative school.

"(h) If a student is suspended, the student's absence shall be considered to be an excused absence if the student satisfactorily completes the assignments for the period of suspension within a reasonable time determined by the district. A district may impose a grade adjustment on the work made up by a student who has been suspended.

"(i) A student removed to an alternative education program in a supervised educational setting may be counted in computing the average daily attendance of students in the district for the student's time in actual attendance in the program.

"(j) The board or the board's designee shall take appropriate disciplinary action against a student who has accrued more than five days of unexcused absence during a semester. A student may not be suspended for being truant or tardy.

"(k) A teacher may send a student to the principal's office in order to maintain effective discipline in the classroom. The principal shall respond by employing appropriate discipline techniques consistent with local policy.

"(l) A teacher may remove from class a student who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class. Not later than the third class day after the day on which the student is removed from the class, the principal shall hold a hearing among the principal or the principal's designee, a parent or guardian of the student, the teacher, and the student. Following the hearing, and whether or not all requested parties are in attendance after valid attempts to require their attendance, the principal shall suspend the pupil for a period consistent with local policy, not to exceed six school days, place the student in an alternative education program, or place the student back in the class. If the student is removed a second time under this subsection within the same semester, the student may be returned to that class only by action of the superintendent at the principal's request. If the student is removed a third or subsequent time under this subsection within the same semester, the student may be returned to that class only by action of the district's board of trustees at the request of the superintendent.

"(m) It is the intent of the legislature that students who are suspended shall receive adequate supervision during the period of the suspension. If a student is suspended, the board or its designee shall notify appropriate school personnel, such as truant officers are disciplined management personnel, and notify community organizations providing appropriate services within the district. The truant officer, appropriate school personnel, or community organizations shall report daily to the board's designee on the whereabouts of the student and on the adequacy of the supervision of the student.

"(n) On request of a district, the Central Education Agency shall provide to the district informational material on developing an alternative education program that takes into consideration size, wealth, and existing facilities in determining a program best suited to a district.

"(o) With the approval of the State Board of Education and as provided under Subsection (g) of this section, two or more school districts jointly may operate a community-based alternative school as provided under Subsection (g)(4) of this section."

SECTION 6. Section 21.3011, Education Code, is revised to read as follows:

"Section 21.3011. EXPULSION OF STUDENTS. (a) In this section, 'expulsion' means suspension of a student from school for more than six school days within a semester. The term does not include removal of a student to an alternative education program.

"(b) In accordance with rules adopted by the State Board of Education, a student may be removed from class and expelled without resort to an alternative education program under Section 21.301 of this code if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

"(1) assaults a teacher or other individual, as defined by Section 22.01, Penal Code;

"(2) sells, gives, or delivers to another person or on more than one occasion possesses or uses:

"(A) marihuana or a controlled substance, as defined by the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes) or by 21 U.S.C. Section 801 et seq.; or

"(B) a dangerous drug, as defined by the Texas dangerous drug law, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes); or

"(3) sells, gives, or delivers to another person or on more than one occasion possesses or uses an alcoholic beverage, as defined by Section 1.04 Alcoholic Beverage Code.

"(c) In accordance with rules adopted by the State Board of Education, a student shall be removed from class and expelled without resort to an alternative education program under Section 21.301 of this code if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property, knowingly possesses any weapon defined in Section 46.01, Penal Code, including but not limited to a firearm, an explosive weapon, an illegal knife, or club.

"(d) A student who, after having been placed in an alternative education program under Section 21.301 of this code, continues to engage in serious or persistent misbehavior that violates the district's previously communicated written standards of student conduct may be removed from class and expelled in accordance with rules adopted by the State Board of Education.

"(e) The board or its designee shall set a term for the expulsion. The term of expulsion may not extend beyond the end of the semester during which the conduct that directly led to the expulsion occurred. If the conduct occurred during the final six-week reporting period of a semester, the expulsion may extend beyond the end of that semester but may not extend beyond the end of the next regular semester.

"(f) Before the expulsion, the board or its designee must provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution. If the decision to expel a student is made by the board's designee, the decision may be appealed to the board by trial de novo to a state district court of the county in which the school district's central administrative office is located.

"(g) A teacher may remove from class and recommend for expulsion a student who engages in conduct for which a student may be expelled under Subsection (b), (c), or (d) of this section. If a teacher recommends a student for expulsion, the board or its designee shall conduct a hearing under Subsection (f) of this section. If the board or its designee decides not to expel the student and the student is again recommended for expulsion by the teacher during the same school year, the hearing under Subsection (f) of this section may be conducted only by the board.

"(h) The board or its designee shall deliver a copy of the order expelling the student to the student and to the student's parent or guardian. The board or its designee shall also deliver a copy of the order to:

"(1) any appropriate state agency, such as the child protective services of the local office of the Texas Department of Human Resources; and

"(2) the prosecuting attorney who prosecutes cases under Title 3 of the Family Code in the jurisdiction of the school district, who shall determine whether to file a petition alleging that the expelled student has engaged in delinquent conduct or conduct indicating a need for supervision.

"(i) Each school district shall provide each teacher and administrator with a copy of Section 21.301 and this section of this code and with a copy of the local policies relating to the sections.

"(j) If a court orders a student who has been expelled to attend school as a condition of probation, the school district shall readmit the student, but the student is not immune from suspension, removal to an alternative education program, or expulsion during the term of the probation.

"(k) Each school district shall reasonably cooperate with governmental agencies and community organizations providing services within the district to students expelled under this section.

"(l) The board or its designee shall refer students expelled under Subsection (b)(2) and (3) of this section to alcohol and/or drug rehabilitation programs providing services within the school district and shall provide appropriate follow-up procedures for these students upon their return to school.

"(m) A school district may provide home-based instruction to students expelled under this section."

SECTION 7. Subsection (a), Section 11.13, Education Code, is amended to read as follows:

"(a) Except in cases of student disciplinary actions under Section 21.301 or 21.3011 of this code, persons [~~Persons~~] having any matter of dispute among them arising under the school laws of Texas or any person aggrieved by the school laws of Texas or by actions or decisions of any board of trustees or board of education may appeal in writing to the commissioner of education, who, after due notice to the parties interested, shall hold a hearing and render a decision without cost to the parties involved, but nothing contained in this section shall deprive any party of any legal remedy."

SECTION 8. Section 21.041, Education Code, is amended by adding Subsection (c) to read as follows:

"(c) This section shall be waived for any student who has been ordered by a court to attend school."

SECTION 9. Section 21.702, Education Code, is amended to read as follows:

"Section 21.702. CONTENT OF APPROVED PROGRAMS. To be approved, a discipline management program must:

"(1) encourage the commitment, cooperation, and involvement of school district administrators, teachers, parents, and students in the development of the program;

"(2) encourage the use of the regional education service center to assist in developing the program and providing training to teachers and administrators;

"(3) require the designation of a person in each school with special training in discipline management to implement and assess the program in that school and to identify and refer appropriate students to school-community guidance programs;

"(4) require the development of a student code of conduct that clearly describes the district's expectations with respect to student conduct, including provisions similar to the Attorney General's Proposed Voluntary Student Code of Conduct of 1980, and specifies the consequences of violating the code;

"(5) specifically outline the responsibilities of teachers, administrators, parents, and students in the discipline management program; and

"(6) make parental involvement an integral part of the discipline management program, requiring:

"(A) one or more [~~at least two parent teacher~~] conferences during each school year between a teacher and the parents of a student if the student is not maintaining passing grades or achieving the expected level of performance or presents some other problem to the teacher or in any other case the teacher considers necessary;

"(B) parent training workshops for home reinforcement of study skills and specific curriculum objectives conducted for parents who want to participate and based on interest indicated by parents in the community; and

"(C) a written statement signed by each parent that the parent understands and consents to the responsibilities outlined in the discipline management program."

SECTION 10. Subsection (a), Section 21.032, Education Code, is amended to read as follows:

"(a) Unless specifically exempted by Section 21.033 of this code or under other laws, every child in the state who is as much as seven years of age, or who is less than seven years of age and has previously been enrolled in first grade, and who is not older than 17 years of age [~~has not completed the academic year in which his 16th birthday occurred~~] shall be required to attend the public schools in the district of his residence or in some other district to which he may be transferred as provided or authorized by law a minimum of 170 days of the regular school term of the district in which the child resides or to which he has been transferred."

SECTION 11. Section 21.035, Education Code, is amended by adding new Subsections (g) and (h) to read as follows:

"(g) A school district shall excuse a student for temporary absence resulting from health-related appointments with physicians, dentists, optometrists, chiropractors, psychiatrists, psychologists, and other similar health-related professionals if that student commences classes or returns to school on the same day of such appointment. A student whose absence is excused under this subsection shall not be penalized for such absence and shall be counted as if he attended school for purposes of calculating the average daily attendance of students in the school district. A student whose absence is excused under this subsection shall be allowed a reasonable time to make up school work missed on those days. The State Board of Education may adopt rules consistent with this subsection that are necessary to administer this subsection uniformly.

"(h) The absences of a student who returns to school as a result of a prosecution under Section 4.25 of this code may be excused if the student:

"(1) returns to school and attends class regularly and to the satisfaction of the district;

"(2) satisfactorily completes assignments for the period of the absence within a reasonable time determined by the district; and

"(3) passes an examination at the completion of the class."

SECTION 12. Subchapter C, Chapter 21, Education Code, as amended, is amended by adding Section 21.082 to read as follows:

"Section 21.082. TRANSFER ON LOSS OF ACCREDITATION. (a) If the accreditation of a school district is revoked by the State Board of Education, the commissioner of education in accordance with board rule may temporarily reassign the district's students to one or more other districts to protect the best interests of the students. The reassignments are effective until the commissioners court of each county in which the district is located approves or modifies the reassignment, the district regains its accreditation, or the territory of the district is annexed as a dormant district under Section 19.025 of this code, whichever occurs first.

"(b) The commissioner of education shall report a district's loss of accreditation and any temporary reassignment of the district's students to the commissioners court of each county in which the district is located.

"(c) the unaccredited district shall pay tuition for the reassigned students from any remaining funds of the district.

"(d) A decision of a commissioners court under this section may be appealed in the manner prescribed by Section 11.13 of this code.

"(e) If this section requires the agreement of or action by two or more commissioners courts and the commissioners courts fail to agree or take action within a reasonable time set by rule of the State Board of Education, a person aggrieved by the failure may appeal to the commissioner of education for resolution of the issue."

SECTION 13. Subsection (a), Section 19.025, Education Code, as amended, is amended to read as follows:

"(a) If the commissioner of education determines that a school district has failed to operate [~~a school~~] for a full school year, the commissioner shall report to each appropriate commissioners court that the district is dormant."

SECTION 14. This Act takes effect September 1, 1985.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is suspended.

The amendment was read.

Senator Krier offered the following amendment to Floor Amendment No. 1.

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **C.S.H.B. 408** by striking page 10 and adding the following:

attending a school-sponsored or school-related activity on or off of school property:

(2) sells, gives, or delivers to another person or possesses or uses a drug listed in Penalty Group 1 of the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes); or

(3) sells, gives, or delivers to another person or on more than one occasion possesses or uses:

(A) marihuana or a controlled substance (other than a Penalty Group 1 substance), as defined by the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes) or by 21 U.S.C. Sec. 801 et seq.; or

(B) a dangerous drug, as defined by the Texas dangerous drug law, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes); or

(4) sells, gives, or delivers to another person or on more than one occasion possesses or uses an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

(c) Subsection (b) of this section does not apply to a student who possesses or uses a controlled substance or dangerous drug in accordance with a valid

prescription, as that term is defined by the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes.

(d) In accordance with rules adopted by the State Board of Education, a student shall be removed from class and expelled without resort to an alternative education program under Section 21.301 of this code if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property, knowingly possesses any weapon defined in Section 46.01, Penal Code, including but not limited to a firearm, an explosive weapon, an illegal knife, or club.

The amendment was read and was adopted by unanimous consent.

Floor Amendment No. 1 as amended was then adopted by unanimous consent.

Senator Uribe offered the following amendment to the bill:

Floor Amendment No. 3

Amend **C.S.H.B. 408** by striking all above the enacting clause and substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to public school students, including discipline, tutorials, testing, transfers and attendance.

The amendment was read and was adopted by unanimous consent.

The bill as amended was finally passed.

MOTION TO ADOPT CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1743

Senator Uribe called from the President's table the Conference Committee Report on **H.B. 1743**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

Senator Uribe moved to adopt the Conference Committee Report on **H.B. 1743**.

Question - Shall the Conference Committee Report be adopted?

AT EASE

On motion of Senator Mauzy and by unanimous consent, the Senate at 11:12 o'clock p.m. agreed to stand At Ease in order to caucus.

IN LEGISLATIVE SESSION

The President called the Senate to order at 11:17 o'clock p.m. as In Legislative Session.

SENATE RESOLUTION 634

Senator Mauzy offered the following resolution:

Honorable William P. Hobby
President of the Senate
Austin, Texas

Sir:

At a caucus held on May 27, 1985, and attended by 30 Members of the Senate, the following recommendations were made, to wit:

BE IT RESOLVED by the Senate, That:

The Lieutenant Governor may employ such employees as are necessary for the operation of his office from the closing of this session and until the convening of the next session, and in addition thereto, he and the Secretary of the Senate shall be furnished postage, telegraph, telephone, express, and all other expenses incident to their respective offices.

The Secretary of the Senate shall be retained during the interval between adjournment of this session and the convening of the next session of the Legislature. The Secretary of the Senate may employ such employees as are necessary for the operation of her office and to perform duties as may be required in connection with the business of the state from the closing of this session and until the convening of the next session. All employees and elected officers of the Senate shall operate under the direct supervision of the Secretary of the Senate during the interim.

The Administration Chairman is authorized to retain a sufficient number of staff employees to conclude the work of the Enrolling Clerk, Calendar Clerk, Journal Clerk and Sergeant-at-Arms. The Committee on Administration shall establish the salaries to be paid the Senate staff.

The Chairman of the Senate Committee on Administration is hereby authorized and directed to cause the Senate Chamber to be placed in order and to purchase such supplies and to make all such repairs and improvements as are necessary between the adjournment of this session and the convening of the next session of the Legislature and make an inventory of all furniture and fixtures in the Senate Chamber and in the private offices of the Members, as well as of the supplies and equipment on hand in the Purchasing and Supply Department and close his books for the Regular Session of the 69th Legislature. No equipment shall be acquired on a rental/purchase plan unless such equipment be placed on the Senate inventory at the termination of such plan. He shall also examine records and accounts payable out of the Contingent Expense Fund as shall be necessary properly to approve all claims and accounts against the Senate, and no claim or account shall be paid without his consent and approval, and he and any Member of the Administration Committee shall be entitled to receive his actual and necessary expenses incurred during the interim; and, be it further

RESOLVED, That there shall be printed 325 volumes of the Senate Journal of the Regular Session of the 69th Legislature; when complete 250 copies shall be bound in buckram and delivered to the Secretary of the Senate; one volume thus bound shall be forwarded by the Secretary of the Senate to each Member of the Senate, to the Lieutenant Governor, and to each Member of the House of Representatives on request. The printing of such journals shall be done in accordance with the provisions of this Resolution under the supervision of the Chairman of the Committee on Administration; provided, further, that it shall be the duty of said chairman to refuse to receive or receipt for said Senate Journals until corrected and published in accordance with the preexisting law as finally approved by the Chairman of the Committee on Administration of the Senate. When the accounts have been certified by the Chairman of the Committee on Administration of the Senate, said accounts shall be paid out of the Contingent Expense Fund of the 69th Legislature; and, be it further

RESOLVED, That all salaries and expenses herein authorized to be incurred and paid for shall be paid out of the per diem and Contingent Expense Fund of the 69th Legislature as follows: The Senate shall request the State Comptroller of Public Accounts to issue general revenue warrants for payment of the employees of the Lieutenant Governor's office, the Lieutenant Governor, Members of the Senate, employees of the Senate committees, and employees of the Senate, except as provided in Section 20 of the Legislative Reorganization Act (Article 5429, Vernon's Texas Civil Statutes), upon presentation of the payroll account signed by

the Chairman of the Administration Committee and the Secretary of the Senate; and for the payment of materials, supplies, and expenses of the Senate, including travel expenses for Members and employees, upon vouchers signed by the Chairman of the Senate Committee on Administration and the Secretary of the Senate; and, be it further

RESOLVED, That in furtherance of the legislative duties and responsibilities of the Senate, the Administration Committee is hereby authorized and directed to charge to the individual Member's office budget as hereinafter authorized: (1) reimbursement of all actual expenses incurred by the Members when traveling in performance of such duties and responsibilities or incident thereto; and (2) payment of all other reasonable and necessary expenses for the operation of the office of the individual Senator during any period the Legislature is not in session. Expenditures for these services by the Administration Committee as hereby authorized as an expense of the Senate shall not be restricted to Austin but may be incurred in individual Senatorial Districts. Such expenses shall be paid from funds appropriated for the use of the Senate on vouchers approved by the Chairman of the Administration Committee and the Secretary of the Senate in accordance with regulations governing such expenditures; and, be it further

RESOLVED, That for the time period from the end of the 69th Legislature, Regular Session, through August 31, 1985, each Senator shall be permitted to employ secretarial and other office staff and for intrastate travel expense for staff employees a maximum payroll of $13,500 per month, and from September 1, 1985, until the convening of the next regular or special session, each Senator shall be permitted to employ secretarial and other office staff and for intrastate travel expenses for staff employees a maximum payroll of $12,500 per month under the classification schedule hereinafter provided. In order to accrue vacation leave, compensatory/overtime leave, or sick leave, employees of Members must file monthly time sheets with the Senate Personnel Office by the 10th of the month following the month in which work was performed. Employees of Members and Committees must use overtime accrued in a given month by the end of the same month of the following year. Overtime accrued prior to January 1, 1985, will not be carried forward after January 1, 1986. No overtime will be paid at either the end of the fiscal year or at an employee's termination. Any unexpended portion of this amount may be carried forward from month to month until the convening of the 70th Legislature at which time the balance lapses. Other expenses, including travel expenses or other reasonable and necessary expenses incurred in the furtherance and performance of legislative duties or in operation of his office or incident thereto, shall be provided in addition to the maximum salary authorized.

It is further recommended that each employee of the Senate, except elected officers, be classified and paid pursuant to the following schedule to include salary changes made by the General Appropriations Act:

Title	Class Number	Group	Salary and Step Range
Messenger	0011	02	912(4)- 949(5)- 979(6)
Clerk Typist II/ Clerk II	0106	04	949(1)- 979(2)-1008(3)
Secretary II	0133	05	1142(5)-1177(6)-1215(7)
Clerk III/ Res. Tech II	0055	06	1074(1)-1107(2)-1142(3)
Secretary III	0135	07	1142(1)-1177(2)-1215(3)
Admin. Secretary	0138	09	1295(1)-1336(2)-1378(3)
Info. Spec. I	1892	14	1790(1)-1850(2)-1912(3)
Admin. Tech I	1501	08	1215(1)-1255(2)-1295(3)
Journalist I	1859	10	1378(1)-1423(2)-1471(3)

Admin. Tech II/ Res. Asst. I	1502	11	1471(1)-1520(2)-1570(3)
Journalist II	1860	12	1676(1)-1732(2)-1790(3)
Admin. Tech III	1503	13	1790(1)-1850(2)-1912(3)
Attorney I	3531	14	1912(1)-1976(2)-2041(3)
Admin. Tech IV/ Attorney II	1504	15	2041(1)-2110(2)-2179(3)
Info. Spec. II	1893	16	2041(1)-2110(2)-2179(3)
Admin. Assistant	1506	17	2179(1)-2254(2)-2329(3)
Attorney III	3533	17	2179(1)-2254(2)-2329(3)
Research Assistant II	1517	13	1676(1)-1732(2)-1790(3)
Info. Spec. III	1864	18	2406(1)-2487(2)-2571(3)
Legal Clerk V/ Legal Counselor	3605	19	2571(1)-2655(2)-2744(3)
Research & Info. Spec.	1866	21	2931(1)-3029(2)-3131(3)

Employees who do not readily fit one of the above classified positions may be assigned a title under the General Classified Positions outlined in the General Appropriations Act upon authorization of the Administration Committee; and, be it further

RESOLVED, That the Lieutenant Governor shall have the authority to appoint any Member of the Senate, the Secretary of the Senate, or other Senate employee to attend meetings of the National Conference of State Legislatures and other similar meetings. Necessary and actual expenses are hereby authorized upon the approval of the Chairman of the Administration Committee and the Secretary of the Senate; and, be it further

RESOLVED, That each of the standing committees and subcommittees of the Senate of the 69th Legislature be authorized to continue to meet at such times and places during the interim as determined by such committees and subcommittees and to hold hearings, recommend legislation, and perform research on matters directed either by Resolution, the Lieutenant Governor, or as determined by majority vote of each committee. Each continuing committee and subcommittee shall continue to function under the rules adopted during the legislative session where applicable. Expenses for the operation of these committees and subcommittees are hereby authorized to be paid pursuant to a budget prepared by each committee and approved by the Administration Committee; and, be it further

RESOLVED, That there is hereby created a committee whose membership shall consist of all 31 Senators, and the Dean of the Senate shall preside as chairman. The chairman may appoint a vice-chairman or chairman pro tempore to preside in the absence of the chairman.

The committee has the duty and authority to supervise all matters relating to the elected officers or internal affairs of the Senate. The committee has the power to do all things reasonable and necessary in carrying out its responsibilities, including but not limited to the discharge of elected officers, filling vacancies in any elected office, determining salaries of elected officers, and prescribing the powers, functions, responsibilities, and duties of the several elected officers of the Senate. The committee shall meet at the call of the chairman or a date specified in a written request of 11 Members or as may be determined by the committee after its initial meeting. Twenty-one Members shall constitute a quorum and a majority of the quorum may take action.

The operating expenses of this committee shall be paid from the Contingent Expense Fund of the Senate, and the committee members shall be reimbursed for their actual expenses incurred in carrying out the duties of the committee.

Any Members not returning for the 70th Legislature will vacate their Senate offices by December 15, 1986; and, be it further

RESOLVED, That no employee of the Senate shall during the time he or she is employed furnish to any person, firm, or corporation any information other than general information furnished the public pertaining to the Senate, and they shall not without permission receive any compensation from any person, firm, or corporation during their employment by the Senate, and any employee found guilty of violating this provision shall be immediately discharged; and, be it further

RESOLVED, That the Secretary of the Senate is specifically directed not to permit the removal of any of the property of the Senate from the Senate Chamber or the rooms of the Senate except as authorized by the Chairman of the Administration Committee.

Respectfully submitted,

MAUZY
/s/Oscar Mauzy
Chairman of the Caucus

BROOKS
/s/Chet Brooks
Secretary of the Caucus

The resolution was read and was adopted.

ELECTION OF PRESIDENT PRO TEMPORE AD INTERIM SIXTY-NINTH LEGISLATURE

The President announced the election of the President Pro Tempore as the next order of business.

Senator Brooks nominated Senator Carlos Truan of Corpus Christi as President Pro Tempore Ad Interim of the Sixty-ninth Legislature.

Senators Mauzy, Santiesteban, Uribe and Parker seconded the nomination.

On motion of Senator Brooks and by unanimous consent, Senator Truan was elected by acclamation and was declared to be President Pro Tempore Ad Interim, Sixty-ninth Legislature, by the President.

Senators Brooks, Mauzy, Barrientos, Santiesteban and Washington were appointed by the President to escort Senator Truan to the President's rostrum.

The President presented Senator Truan to the Senate and administered the Oath of Office to him as President Pro Tempore, Ad Interim, Sixty-ninth Legislature.

Senator Truan presented his wife, Elvira, to the Members of the Senate.

Senator Truan addressed the Senate, expressing his appreciation for the opportunity to serve.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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:

The House has adopted the Conference Committee Report on the following bills by a non-record vote:

S.B. 1455
S.B. 1435
S.B. 1170
S.B. 283
S.B. 738

The House has adopted the Conference Committee Report on **H.B. 473** by a vote of 143 ayes, 3 noes, 1 present not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT HOUSE BILL 2091

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
May 27, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis 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 **H.B. 2091** 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.

EDWARDS	EVANS
PARMER	MESSER
LYON	GIBSON
BROOKS	T. SMITH
On the part of the Senate	On the part of the House

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

SENATE RULE 96(h) SUSPENDED

On motion of Senator Edwards and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on **H.B. 2091**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2091 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **H.B. 2091**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 27, 1985.)

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

RECORD OF VOTES

Senators Krier and Washington asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

MOTION TO RECONSIDER VOTE ON FINAL PASSAGE OF HOUSE BILL 1594

Senator Mauzy moved to reconsider the vote by which the Senate finally passed **H.B. 1594**.

Question - Shall the vote be reconsidered?

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1985

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:

The House has adopted the Conference Committee Report on **H.B. 2091** by a vote of 123 ayes, 24 noes, 1 present not voting.

The House has adopted the Conference Committee Report on **H.B. 1323** by a vote of 138 ayes, 7 noes, 1 present not voting.

The House has adopted the Conference Committee Report on **H.B. 1592** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 578** by a vote of 141 ayes, 1 noes, 1 present not voting.

The House has adopted the Conference Committee Report on **S.B. 807** by a vote of 143 ayes, 3 noes, 1 present not voting.

The House has adopted the Conference Committee Report on **S.B. 105** by a vote of 127 ayes, 1 noes.

The House has adopted the Conference Committee Report on **H.B. 1627** by a vote of 132 ayes, 1 noes.

The House has concurred in Senate amendments to **H.B. 626** by a vote of 136 ayes, 1 noes.

The House has concurred in Senate amendments to **H.B. 2433** by a vote of 132 ayes, 5 noes.

The House has adopted the Conference Committee Report on **H.B. 805** by a vote of 143 ayes, 0 noes, 1 present not voting.

The House has concurred in Senate amendments to **H.B. 741** by a vote of 142 ayes, 4 noes, 1 present not voting.

The House has concurred in Senate amendments to **H.B. 1658** by a vote of 103 ayes, 28 noes, 1 present not voting.

The House has adopted the Conference Committee Report on **H.B. 2036** by a vote of 142 ayes, 4 noes, 1 present not voting.

The House has concurred in Senate amendments to **H.B. 913** by a vote of 144 ayes, 1 noes.

The House has adopted the Conference Committee Report on **S.B. 967** by a vote of 139 ayes, 0 noes, 2 present not voting.

The House has concurred in Senate amendments to **H.B. 1585** by a vote of 115 ayes, 29 noes, 1 present not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

MOTION IN WRITING

Senator Mauzy submitted the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) members to notify the House of Representatives that the Senate has completed its labors and is ready to adjourn sine die.

MAUZY

The Motion in Writing was read and was adopted.

Accordingly, the President appointed the following Committee to Notify the House: Senators Barrientos, Green, Lyon, Parker and Washington.

MOTION IN WRITING

Senator Mauzy submitted the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) members to notify the Governor that the Senate has completed its labors and is ready to adjourn sine die.

MAUZY

The Motion in Writing was read and was adopted.

Accordingly, the President appointed the following Committee to Notify the Governor: Senators Brooks, Farabee, Howard, Mauzy and Traeger.

SENATE CONCURRENT RESOLUTION 190

Senator Mauzy offered the following resolution:

BE IT RESOLVED, That the 69th Legislature of the State of Texas, having completed its business, stand adjourned sine die at midnight on May 27, 1985.

The resolution was read.

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

BILLS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills:

H.B. 162	**H.B. 1747**	**H.B. 2298**
H.B. 226	**H.B. 1846**	**H.B. 2395**
H.B. 356	**H.B. 1856**	**H.B. 2407**
H.B. 435	**H.B. 1866**	**H.B. 2409**
H.B. 802	**H.B. 1883**	**H.B. 2428**
H.B. 973	**H.B. 1889**	**H.B. 2435**
H.B. 1075	**H.B. 1912**	**H.B. 2436**

H.B. 1191	H.B. 1947	H.B. 2444
H.B. 1247	H.B. 1973	H.B. 2449
H.B. 1252	H.B. 1976	H.B. 2452
H.B. 1278	H.B. 2089	H.B. 2478
H.B. 1306	H.B. 2151	H.B. 2509
H.B. 1344	H.B. 2160	H.B. 1173
H.B. 1442	H.B. 2168	H.B. 1351
H.B. 1478	H.B. 2219	H.B. 1376
H.B. 1656	H.B. 2240	H.B. 2404
H.B. 1702	H.B. 2287	H.B. 2412

MOTION TO ADJOURN SINE DIE

At 12:00 o'clock midnight Senator Mauzy moved that the Senate of the Sixty-ninth Legislature, Regular Session, adjourn sine die upon the completion of administrative duties.

The motion prevailed.

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. 181	S.C.R. 171	S.C.R. 187
S.C.R. 184	S.C.R. 174	S.C.R. 188
S.C.R. 90	S.C.R. 176	S.J.R. 14
S.C.R. 121	S.C.R. 186	S.J.R. 27
S.B. 21	S.B. 955	S.B. 1450
S.B. 105	S.B. 966	S.B. 1455
S.B. 192	S.B. 967	S.B. 1470
S.B. 283	S.B. 979	S.B. 1487
S.B. 290	S.B. 980	S.B. 30
S.B. 440	S.B. 1063	S.B. 32
S.B. 493	S.B. 1125	S.B. 189
S.B. 527	S.B. 1128	S.B. 261
S.B. 540	S.B. 1139	S.B. 469
S.B. 578	S.B. 1170	S.B. 513
S.B. 601	S.B. 1175	S.B. 538
S.B. 633	S.B. 1184	S.B. 840
S.B. 699	S.B. 1238	S.B. 908
S.B. 713	S.B. 1246	S.B. 993
S.B. 725	S.B. 1247	S.B. 1304
S.B. 738	S.B. 1270	S.B. 1355
S.B. 746	S.B. 1298	S.B. 118
S.B. 791	S.B. 1321	S.B. 300
S.B. 802	S.B. 1322	S.B. 455
S.B. 807	S.B. 1342	S.B. 632
S.B. 809	S.B. 1353	S.B. 660
S.B. 830	S.B. 1367	S.B. 782
S.B. 863	S.B. 1409	S.B. 806
S.B. 869	S.B. 1415	S.B. 903
S.B. 911	S.B. 1435	S.B. 1316
S.B. 940	S.B. 1442	S.B. 382
S.B. 249 (Signed subject to Art. III, Sec. 49a of the Constitution)		

S.B. 384 (Signed subject to Art. III, Sec. 49a of the Constitution)
S.B. 957 (Signed subject to Art. III, Sec. 49a of the Constitution)
S.B. 1002 (Signed subject to Art. III, Sec. 49a of the Constitution)
S.B. 1007 (Signed subject to Art. III, Sec. 49a of the Constitution)
S.B. 1273 (Signed subject to Art. III, Sec. 49a of the Constitution)
S.B. 1300 (Signed subject to Art. III, Sec. 49a of the Constitution)
S.B. 1350 (Signed subject to Art. III, Sec. 49a of the Constitution)
S.B. 1452 (Signed subject to Art. III, Sec. 49a of the Constitution)
S.B. 1295 (Signed subject to Art. III, Sec. 49a of the Constitution)

H.B. 85	H.B. 1425	H.B. 2316
H.B. 712	H.B. 1481	H.B. 2349
H.B. 756	H.B. 1525	H.B. 2377
H.B. 870	H.B. 1543	H.B. 2420
H.B. 873	H.B. 1573	H.B. 2457
H.B. 938	H.B. 1657	H.B. 2458
H.B. 978	H.B. 1744	H.B. 2479
H.B. 986	H.B. 1803	H.B. 2497
H.B. 993	H.B. 1837	H.B. 2499
H.B. 1193	H.B. 1874	H.B. 2502
H.B. 1220	H.B. 1879	H.B. 2511
H.B. 1225	H.B. 1921	H.B. 2513
H.B. 1240	H.B. 2005	H.B. 2514
H.B. 1273	H.B. 2010	H.B. 1569
H.B. 1304	H.B. 2068	H.B. 1731
H.B. 1307	H.B. 2096	H.B. 1776
H.B. 1335	H.B. 2211	H.B. 2290
H.B. 1346	H.B. 2212	H.B. 2459
H.B. 1385	H.B. 2213	H.B. 2474
H.B. 1391	H.B. 2299	H.B. 2302
H.B. 1401		

H.B. 387 (Signed subject to Art. III, Sec. 49a of the Constitution)

H.B. 13	H.B. 1037	H.B. 2207
H.B. 46	H.B. 1330	H.B. 2210
H.B. 48	H.B. 1365	H.B. 2214
H.B. 157	H.B. 1429	H.B. 2259
H.B. 196	H.B. 1485	H.B. 2358
H.B. 241	H.B. 1655	H.B. 2370
H.B. 267	H.B. 1658	H.B. 2371
H.B. 309	H.B. 1717	H.B. 2386
H.B. 393	H.B. 1774	H.B. 2388
H.B. 403	H.B. 1788	H.B. 2408
H.B. 433	H.B. 1802	H.B. 2414
H.B. 539	H.B. 1867	H.B. 2423
H.B. 553	H.B. 1911	H.B. 2431

H.B. 626	H.B. 1929	H.B. 2433
H.B. 788	H.B. 1957	H.B. 2438
H.B. 797	H.B. 1959	H.B. 2447
H.B. 805	H.B. 2012	H.B. 2470
H.B. 874	H.B. 2034	H.B. 2461
H.B. 875	H.B. 2036	H.B. 2473
H.B. 910	H.B. 2043	H.B. 2487
H.B. 916	H.B. 2053	H.B. 2490
H.B. 919	H.B. 2161	H.B. 2512
H.B. 952	H.B. 2195	H.B. 2522
H.B. 987	H.B. 256	H.B. 473
H.B. 501	H.B. 1323	H.B. 1811
H.B. 579	H.B. 1585	H.B. 1825
H.B. 741	H.B. 1592	H.B. 1985
H.B. 743	H.B. 1593	H.B. 2091
H.B. 913	H.B. 1732	H.B. 2488
H.C.R. 78	H.C.R. 137	H.C.R. 141
H.C.R. 161	H.C.R. 226	H.C.R. 252
H.C.R. 173	H.C.R. 233	H.C.R. 255
H.C.R. 184	H.C.R. 238	H.C.R. 257
H.C.R. 192	H.C.R. 240	H.C.R. 259
H.C.R. 203	H.C.R. 243	H.J.R. 19
H.C.R. 204	H.C.R. 244	H.J.R. 54
H.C.R. 206	H.C.R. 249	H.J.R. 73
H.C.R. 219	H.C.R. 250	H.J.R. 89
H.C.R. 225	H.C.R. 251	

H.B. 20 (Signed subject to Art. III, Sec. 49a of the Constitution)

H.B. 2359 (Signed subject to Art. III, Sec. 49a of the Constitution)

MEMORIAL RESOLUTIONS

S.R. 546 - By Farabee: Memorial resolution for Charles "Chick" Gullett.

S.R. 548 - By Brooks: Memorial resolution for Chad Allen Nelson.

S.R. 569 - By Barrientos: Memorial resolution for Robert Shaw.

S.R. 595 - By Truan: Memorial resolution for Joe Rodriguez.

S.R. 602 - By Truan: Memorial resolution for Police Sergeant Ruben T. Almanza.

S.R. 604 - By Truan: Memorial resolution for Nerio C. Garza.

S.R. 605 - By Truan: Memorial resolution for Albert de los Santos.

S.R. 608 - By Truan: Memorial resolution for Simon Grossman.

S.R. 617 - By Truan: Memorial resolution for Dr. Hans A. Suter.

S.R. 631 - By Caperton: Memorial resolution for Judge W. T. McDonald.

S.R. 633 - By Truan: Memorial resolution for Edward M. Gonzales.

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 250 - (Harris): Extending congratulations to John R. Butler.

H.C.R. 251 - (Harris): Extending congratulations to Robert H. Dedman.

H.C.R. 255 - (Edwards): Extending congratulations to Central Freight Lines.

S.R. 543 - By Edwards: Commending participating businesses in campaign to locate missing children.

S.R. 544 - By Edwards: Extending congratulations to Oscar Mercado.

S.R. 545 - By Farabee: Extending congratulations to Munday Moguls, State Class A Track Champions.

S.R. 547 - By Sarpalius: Extending congratulations to 4-H Volunteer Leaders' Association.

S.R. 549 - By Farabee: Recognizing Cooke County College's leadership in Texas Wagon Train Association.

S.R. 550 - By Traeger: Extending congratulations to James Tullis "Happy" Shahan.

S.R. 551 - By Glasgow: Extending congratulations to Sheriff Lon Evans.

S.R. 552 - By Glasgow: Extending congratulations to Mrs. Jessie Quisenberry.

S.R. 553 - By Glasgow: Extending congratulations to Allen V. Hudspeth.

S.R. 554 - By Glasgow: Extending congratulations to Carl "Rook" Ramsey.

S.R. 555 - By Glasgow: Extending congratulations to Reed Stewart.

S.R. 556 - By Glasgow: Extending congratulations to Hughie Long.

S.R. 557 - By Glasgow: Extending congratulations to Louise Ritter.

S.R. 558 - By Glasgow: Extending congratulations to Judge Herman Fitts.

S.R. 559 - By Blake: Extending congratulations to Community of Kirbyville on 90th anniversary of founding.

S.R. 560 - By Glasgow: Extending congratulations to Kenneth Terrill George.

S.R. 561 - By Glasgow: Extending welcome to Dr. James E. Hunter, "Capitol Physician for the Day".

S.R. 562 - By Glasgow: Extending congratulations to Thelma Doss.

S.R. 563 - By Glasgow: Extending congratulations to S. J. Stovall.

S.R. 564 - By Glasgow: Extending congratulations to Community of Lingleville on 100th anniversary.

S.R. 565 - By Glasgow: Extending congratulations to Frank Pellizzari.

S.R. 566 - By Glasgow: Extending congratulations to Kenneth E. McIntush II.

S.R. 567 - By Glasgow: Extending congratulations to Billy A. Vannoy.

S.R. 568 - By Barrientos: Extending congratulations to Anthony G. Harris.

S.R. 570 - By Barrientos: Extending congratulations to U.S. Olympic Track Officials from Texas serving in the 1984 Olympic Summer Games in Los Angeles.

S.R. 571 - By Barrientos: Extending congratulations to Mrs. Rose Baletka.

S.R. 572 - By Blake: Extending congratulations to Ms. Lolly Garcia and staff of Senate Personnel Office.

S.R. 573 - By Blake: Extending congratulations to Steve Guest and staff of Senate Sergeant-at-Arms Office.

S.R. 574 - By Blake: Extending congratulations to Mrs. Patsy Spaw and staff of Senate Enrolling and Engrossing Office.

S.R. 575 - By Blake: Extending congratulations to Mrs. Billie Leach and staff of Senate Purchasing Office

S.R. 576 - By Blake: Extending congratulations to Capitol Car Guards.

S.R. 577 - By Blake: Extending congratulations to Senate Porters.

S.R. 578 - By Blake: Extending congratulations to Mrs. Betty King and staff of Secretary of Senate Office.

S.R. 579 - By Blake: Extending congratulations to Mrs. Margrette Vollers and staff of Senate Journal Clerk's Office.

S.R. 580 - By Blake: Extending congratulations to Mrs. Joyce Pesl and staff of Senate Payroll.

S.R. 581 - By Blake: Extending congratulations to Harold Sander and staff of Senate Post Office.

S.R. 582 - By Blake: Extending congratulations to Victoria Hampton.

S.R. 583 - By Blake: Extending congratulations to Staff Support Services.

S.R. 584 - By Blake: Extending congratulations to William J. Berry III and staff of Senate Auditor's Office.

S.R. 585 - By Blake: Extending congratulations to Kathy Staat and staff of Senate Media Services.

S.R. 586 - By Blake: Extending congratulations to Mrs. Kay Hughes and staff of Senate Calendar Clerk's Office.

S.R. 587 - By Blake: Extending congratulations to Mrs. Mary Kay McLean and staff of Senate Staff Services Office.

S.R. 588 - By Blake: Extending congratulations to Bobby Gomez, Mary Conner and staff of Senate Reproduction Department.

S.R. 590 - By Sharp: Extending congratulations to Victoria Junior League.

S.R. 591 - By Sharp: Extending congratulations to O. T. Moore, Jr.

S.R. 592 - By Sharp: Extending congratulations to Clark "Trey" Woodson III.

S.R. 593 - By Sharp: Extending congratulations to Tracy Simien.

S.R. 594 - By Sharp: Extending congratulations to Melissa Simmons.

S.R. 596 - By Truan: Extending congratulations to Del Mar College.

S.R. 597 - By Truan: Extending congratulations to Mary Kelly.

S.R. 598 - By Truan: Extending congratulations to Mrs. Mary Lou Garza.

S.R. 599 - By Truan: Extending congratulations to Linda Moyer.

S.R. 600 - By Truan: Extending congratulations to Mrs. Noemi Towns.

S.R. 601 - By Truan: Extending congratulations to Richard Godoy.

S.R. 603 - By Truan: Extending congratulations to Jaime Arriaga.

S.R. 606 - By Truan: Extending congratulations to Jimmie Tiller.

S.R. 607 - By Truan: Extending congratulations to Johnny Zepeda.

S.R. 609 - By Truan: Extending congratulations to Roel Salinas.

S.R. 610 - By Truan: Extending congratulations to Roy Hinojosa.

S.R. 611 - By Truan: Extending congratulations to Louis Garcia.

S.R. 612 - By Blake: Extending congratulations to Diane Fleming.

S.R. 613 - By Truan: Extending congratulations to Jose Montoya.

S.R. 614 - By Truan: Extending congratulations to Dorothy McCoy.

S.R. 615 - By Truan: Extending congratulations to Ms. Nelia Barrera.

S.R. 616 - By Truan: Extending congratulations to Participants in 26th annual Feria de las Flores.

S.R. 618 - By Truan: Extending congratulations to Dr. Hector P. Garcia.

S.R. 619 - By Barrientos, Sharp: Extending congratulations to Cristobal Garcia.

S.R. 620 - By Santiesteban, Mauzy, Montford, Traeger, Kothmann, Brooks, Jones, Harris, Farabee: Extending congratulations to Charles A. Schnabel, Jr.

S.R. 621 - By Sims: Extending congratulations to Mrs. Mary Lucretia Neely.

S.R. 622 - By Glasgow: Extending congratulations to Loyd Reese.

S.R. 623 - By Glasgow: Extending congratulations to Elvis Shockley.

S.R. 624 - By Glasgow: Extending congratulations to First United Methodist Church, Rising Star on 100th anniversary.

S.R. 625 - By Glasgow: Extending congratulations to Sheriff Stuart Huffman.

S.R. 626 - By Glasgow: Extending congratulations to K Epperson.

S.R. 627 - By Glasgow: Extending congratulations to Louie Hall.

S.R. 630 - By Mauzy, Brooks, Barrientos: Extending congratulations to Mr. and Mrs. Billy Randell Pewitt.

S.R. 632 - By Mauzy: Extending congratulations to Mr. and Mrs. Joe Woods.

ADJOURNMENT SINE DIE

The President announced that the hour for final adjournment of the Regular Session of the Sixty-ninth Legislature had arrived.

Senator Krier, at 9:58 o'clock a.m., May 28, 1985, moved that the Senate of the Sixty-ninth Legislature, in accordance with a motion previously adopted, stand adjourned sine die.

The President declared the Regular Session of the Sixty-ninth Legislature adjourned sine die.

APPENDIX

Sent to Governor
(May 28, 1985)

S.B. 69	S.B. 464
S.B. 589	S.B. 639
S.B. 845	S.B. 866
S.B. 906	

(May 29, 1985)

S.B. 16	S.B. 255	S.B. 497	S.B. 656
S.B. 37	S.B. 262	S.B. 518	S.B. 679
S.B. 48	S.B. 267	S.B. 523	S.B. 681
S.B. 59	S.B. 270	S.B. 524	S.B. 700
S.B. 85	S.B. 289	S.B. 528	S.B. 716
S.B. 108	S.B. 291	S.B. 532	S.B. 719
S.B. 127	S.B. 317	S.B. 544	S.B. 723
S.B. 162	S.B. 320	S.B. 549	S.B. 750
S.B. 169	S.B. 334	S.B. 550	S.B. 760
S.B. 175	S.B. 344	S.B. 569	S.B. 765
S.B. 195	S.B. 346	S.B. 574	S.B. 793
S.B. 201	S.B. 358	S.B. 575	S.B. 820
S.B. 204	S.B. 371	S.B. 577	S.B. 821
S.B. 205	S.B. 381	S.B. 607	S.B. 823
S.B. 209	S.B. 387	S.B. 608	S.B. 829
S.B. 217	S.B. 394	S.B. 620	S.B. 839
S.B. 221	S.B. 415	S.B. 631	S.B. 842
S.B. 245	S.B. 419	S.B. 640	S.B. 844
S.B. 254	S.B. 435	S.B. 651	S.B. 858
S.B. 876			

Sent to Comptroller
(May 29, 1985)

S.B. 300	S.B. 384	S.B. 957	S.B. 994
S.B. 1295			

Sent to Secretary of State

(May 29, 1985)	(May 30, 1985)
S.J.R. 9	H.J.R. 19
S.J.R. 21	H.J.R. 54
	H.J.R. 72
	H.J.R. 73
	H.J.R. 89

Sent to Governor
(May 30, 1985)

S.C.R. 48	S.C.R. 100	S.C.R. 129	S.C.R. 153
S.C.R. 57	S.C.R. 108	S.C.R. 130	S.C.R. 155
S.C.R. 65	S.C.R. 109	S.C.R. 131	S.C.R. 156
S.C.R. 73	S.C.R. 110	S.C.R. 135	S.C.R. 168
S.C.R. 74	S.C.R. 111	S.C.R. 140	S.C.R. 170
S.C.R. 83	S.C.R. 118	S.C.R. 143	S.C.R. 172
S.C.R. 84	S.C.R. 123	S.C.R. 144	S.C.R. 175
S.C.R. 92	S.C.R. 126	S.C.R. 147	S.C.R. 177

S.C.R. 97	S.C.R. 127	S.C.R. 151	S.C.R. 178
S.C.R. 99	S.C.R. 128	S.C.R. 152	
S.B. 119	S.B. 1122	S.B. 1297	S.B. 1377
S.B. 140	S.B. 1152	S.B. 1302	S.B. 1378
S.B. 454	S.B. 1153	S.B. 1303	S.B. 1400
S.B. 482	S.B. 1155	S.B. 1309	S.B. 1420
S.B. 901	S.B. 1169	S.B. 1320	S.B. 1421
S.B. 969	S.B. 1186	S.B. 1330	S.B. 1426
S.B. 978	S.B. 1187	S.B. 1335	S.B. 1427
S.B. 1018	S.B. 1222	S.B. 1344	S.B. 1437
S.B. 1034	S.B. 1224	S.B. 1348	S.B. 1443
S.B. 1052	S.B. 1228	S.B. 1356	S.B. 1458
S.B. 1055	S.B. 1243	S.B. 1357	S.B. 1465
S.B. 1083	S.B. 1245	S.B. 1358	S.B. 1466
S.B. 1114	S.B. 1257	S.B. 1359	S.B. 1484
S.B. 1115	S.B. 1280	S.B. 1360	

Sent to Governor
(May 31, 1985)

S.C.R. 90	S.C.R. 176	S.C.R. 184	S.C.R. 187
S.C.R. 121	S.C.R. 181	S.C.R. 186	S.C.R. 188
S.C.R. 171	S.B. 469	S.B. 809	S.B. 1170
S.C.R. 174	S.B. 493	S.B. 830	S.B. 1225
S.B. 21	S.B. 513	S.B. 831	S.B. 1246
S.B. 30	S.B. 527	S.B. 840	S.B. 1247
S.B. 32	S.B. 538	S.B. 863	S.B. 1294
S.B. 72	S.B. 548	S.B. 903	S.B. 1298
S.B. 105	S.B. 578	S.B. 908	S.B. 1301
S.B. 118	S.B. 601	S.B. 923	S.B. 1304
S.B. 125	S.B. 609	S.B. 926	S.B. 1316
S.B. 141	S.B. 632	S.B. 940	S.B. 1322
S.B. 189	S.B. 652	S.B. 955	S.B. 1336
S.B. 192	S.B. 660	S.B. 966	S.B. 1342
S.B. 203	S.B. 688	S.B. 967	S.B. 1353
S.B. 229	S.B. 699	S.B. 980	S.B. 1355
S.B. 261	S.B. 713	S.B. 993	S.B. 1361
S.B. 290	S.B. 718	S.B. 1063	S.B. 1388
S.B. 382	S.B. 725	S.B. 1081	S.B. 1391
S.B. 440	S.B. 738	S.B. 1123	S.B. 1409
S.B. 455	S.B. 746	S.B. 1128	S.B. 1442
S.B. 463	S.B. 782	S.B. 1139	S.B. 1455
S.B. 465	S.B. 806	S.B. 1167	S.B. 1487
S.B. 466	S.B. 807		

Sent to Comptroller
(June 3, 1985)

S.B. 249	S.B. 791
S.B. 1002	S.B. 1007
S.B. 1171	S.B. 1273
S.B. 1300	S.B. 1454
S.B. 1452	

Sent to Governor
(June 3, 1985)

S.B. 283	**S.B. 979**	**S.B. 1321**	**S.B. 1470**
S.B. 540	**S.B. 1125**	**S.B. 1350**	**S.B. 300**
S.B. 633	**S.B. 1175**	**S.B. 1367**	**S.B. 384**
S.B. 802	**S.B. 1184**	**S.B. 1415**	**S.B. 957**
S.B. 869	**S.B. 1238**	**S.B. 1435**	**S.B. 994**
S.B. 911	**S.B. 1270**	**S.B. 1450**	**S.B. 1295**

Sent to Secretary of State
(June 3, 1985)

S.J.R. 14 **S.J.R. 27**

Filed Without Signature of Governor

S.B. 245 (Effective immediately)

Signed by Governor
(May 29, 1985)

H.B. 505 (Effective September 1, 1985)

(May 31, 1985)

H.B. 1280 (Effective September 1, 1985)
H.B. 1330 (Effective September 1, 1985; Article 3, immediately)

(June 3, 1985)

S.B. 128 (Effective September 1, 1985)
S.B. 477 (Effective September 1, 1985)
S.B. 578 (Effective Fall semester 1985)
S.B. 598 (Effective September 1, 1985)
S.B. 639 (Effective September 1, 1985)
S.B. 713 (Effective September 1, 1985)
S.B. 906 (Effective September 1, 1985)
S.B. 1175 (Effective September 1, 1985)
S.B. 1316 (Effective immediately)
S.B. 1322 (Effective August 26, 1985)
S.B. 1409 (Effective August 26, 1985)
H.B. 260 (Sections 1 and 2 upon adoption of **H.J.R. 54**; Section 3, August 26, 1985)
H.B. 1583 (Effective August 26, 1985)
H.B. 1593 (Effective September 1, 1985)
S.C.R. 124
S.B. 497 (Effective August 26, 1985)
S.B. 853 (Effective immediately)
S.B. 1123 (Effective August 26, 1985)
H.B. 1012 (Effective August 26, 1985)

Sent to Governor
(June 6, 1985)

S.B. 249

S.B. 791
S.B. 1002
S.B. 1007
S.B. 1171
S.B. 1273
S.B. 1300
S.B. 1452
S.B. 1454

Signed by Governor
(June 4, 1985)

S.B. 366 (Effective August 26, 1985)
S.B. 905 (Effective immediately)
S.B. 994 (Effective August 26, 1985)
S.B. 1005 (Effective August 26, 1985)
H.B. 220 (Effective September 1, 1985)
H.B. 339 (Effective August 26, 1985)
H.B. 380 (Effective September 1, 1985)
H.B. 667 (Effective August 26, 1985)
H.B. 718 (Effective September 1, 1985)
H.B. 738 (Effective August 26, 1985)
H.B. 759 (Effective September 1, 1985)
H.B. 826 (Effective immediately)
H.B. 833 (Effective September 1, 1985)
H.B. 1078 (Effective immediately)
H.B. 1140 (Effective August 26, 1985)
H.B. 1242 (Effective August 26, 1985)
H.B. 1470 (Effective August 26, 1985)
H.B. 1508 (Effective August 26, 1985)
H.B. 1577 (Effective September 1, 1985)
H.B. 2087 (Effective immediately)
H.B. 243 (Effective immediately)
H.B. 252 (Effective August 26, 1985)
H.B. 557 (Effective September 1, 1985)
H.B. 823 (Effective September 1, 1985)

(June 5, 1985)

S.B. 140 (Effective September 1, 1985)
S.B. 351 (Effective August 26, 1985)
S.B. 395 (Effective August 26, 1985)
S.B. 398 (Effective September 1, 1985)
S.B. 464 (Effective September 1, 1985)
S.B. 748 (Effective immediately)
S.B. 854 (Effective September 1, 1985)
S.B. 1350 (Effective immediately)
S.B. 1437 (Effective immediately)
H.B. 1098 (Effective immediately)
H.B. 1202 (Effective August 26, 1985)
H.B. 1531 (Effective September 1, 1985)
H.B. 1736 (Effective immediately)
H.B. 1762 (Effective August 26, 1985)
H.B. 1787 (Effective August 26, 1985)
H.B. 2086 (Effective immediately)
H.B. 2121 (Effective August 26, 1985)

H.B. 2126 (Effective August 26, 1985)
H.B. 2305 (Effective August 26, 1985)
H.B. 2362 (Effective immediately)
H.B. 2379 (Effective August 26, 1985)

(June 6, 1985)

S.B. 16 (Effective August 26, 1985)
S.B. 21 (Effective September 1, 1985)
S.B. 620 (Effective immediately)
S.B. 750 (Effective immediately)
S.B. 1114 (Effective August 26, 1985)
H.B. 196 (Effective upon approval of **H.J.R. 19**)

(June 7, 1985)

S.B. 148 (Effective September 1, 1985)
S.B. 281 (Effective August 26, 1985)
S.B. 285 (Effective August 26, 1985)
S.B. 286 (Effective August 26, 1985)
S.B. 940 (Effective September 1, 1985)
S.B. 956 (Effective August 26, 1985)
H.B. 742 (Effective August 26, 1985)
H.B. 1581 (Effective September 1, 1985)
H.B. 2066 (Effective September 1, 1985)
H.B. 2261 (Effective August 26, 1985)
H.B. 2256 (Effective September 1, 1985)
H.B. 2300 (Effective August 26, 1985)
H.B. 2301 (Effective immediately)
H.B. 2346 (Effective August 26, 1985)
H.B. 2411 (Effective August 26, 1985)
S.B. 216 (Effective August 26, 1985)
S.B. 426 (Effective immediately)
S.B. 483 (Effective September 1, 1985)
S.B. 551 (Effective immediately)
S.B. 552 (Effective July 1, 1985)
S.B. 602 (Effective immediately)
S.B. 675 (Effective immediately)
S.B. 1211 (Effective August 26, 1985)
S.B. 253 (Effective August 26, 1985)
S.C.R. 74
S.C.R. 121
S.C.R. 168
S.C.R. 171
H.C.R. 40
H.C.R. 161
H.C.R. 216
H.C.R. 220
H.C.R. 221
H.C.R. 233
H.C.R. 236
H.C.R. 238
H.C.R. 240
H.C.R. 242
H.C.R. 243

H.C.R. 244
H.C.R. 245
H.C.R. 248
H.C.R. 249
H.C.R. 250
H.C.R. 251
H.C.R. 252
H.C.R. 255

(June 8, 1985)

H.B. 476 (Effective August 26, 1985)
H.B. 2481 (Effective September 1, 1985, except Subsection (b) of Section 2, effective September 1, 1986)
S.B. 67 (Effective January 1, 1986)
S.B. 401 (Effective immediately)
S.B. 553 (Effective immediately)
S.B. 901 (Effective immediately)
S.B. 1231 (Effective September 1, 1985)
H.B. 477 (Effective August 26, 1985)
H.B. 595 (Effective August 26, 1985)
H.B. 865 (Effective September 1, 1985)
H.B. 1226 (Effective August 26, 1985)
H.B. 2389 (Effective August 26, 1985)
H.B. 2516 (Effective September 1, 1985)
H.B. 293 (Effective September 1, 1985)
H.B. 733 (Effective August 26, 1985)
H.B. 753 (Effective beginning with the election of the 70th Legislature)
H.B. 918 (Effective immediately)
H.B. 1055 (Effective September 1, 1985)
H.B. 1070 (Effective September 1, 1985)
H.B. 1259 (Effective September 1, 1985)
H.B. 1149 (Effective August 26, 1985)
H.C.R. 188
H.C.R. 115
H.C.R. 1
H.C.R. 200
S.C.R. 48
S.C.R. 57
S.C.R. 83
S.C.R. 97
S.C.R. 99
S.C.R. 118
S.C.R. 123
S.C.R. 126
S.C.R. 127
S.C.R. 129
S.C.R. 170
S.C.R. 172
S.C.R. 174
S.C.R. 175
S.C.R. 178
S.C.R. 184

S.C.R. 186
S.C.R. 187

(June 10, 1985)

H.B. 2044 (Effective January 1, 1986)
H.B. 2084 (Effective August 26, 1985)
H.B. 2182 (Effective September 1, 1985)
H.B. 2323 (Effective August 26, 1985)
H.B. 2236 (Effective immediately)
H.B. 2375 (Effective September 1, 1985)
H.B. 2382 (Effective immediately)
H.B. 2422 (Effective immediately)
H.B. 2427 (Effective immediately)
H.B. 2437 (Effective immediately)
H.B. 2506 (Effective immediately)
H.B. 1041 (Effective September 1, 1985)
H.B. 1046 (Effective immediately)
H.B. 1096 (Effective immediately)
H.B. 1161 (Effective immediately)
H.B. 1201 (Effective September 1, 1985)
H.B. 1215 (Effective immediately)
H.B. 1235 (Effective August 26, 1985)
H.B. 1241 (Effective immediately)
H.B. 1248 (Effective August 26, 1985)
H.B. 1263 (Effective August 26, 1985)
H.B. 1618 (Effective August 26, 1985)
H.B. 1728 (Effective immediately)
H.B. 1903 (Effective August 26, 1985)
H.B. 1936 (Effective immediately)
H.B. 1942 (Effective August 26, 1985)
S.B. 435 (Effective August 26, 1985)
S.B. 564 (Effective September 1, 1985)
S.B. 688 (Effective August 26, 1985)
S.B. 845 (Sections 1 & 3 effective January 1, 1986, Section 2 effective immediately)
S.B. 894 (Effective September 1, 1985)
S.B. 979 (Effective August 26, 1985)
S.B. 1298 (Effective August 26, 1985)
S.B. 387 (Effective September 1, 1985)
S.B. 532 (Effective August 26, 1985)
S.B. 767 (Effective immediately)
S.B. 792 (Effective immediately)
S.B. 803 (Effective August 26, 1985)
S.B. 862 (Effective immediately)
S.B. 885 (Effective immediately)
H.B. 1532 (Effective August 26, 1985)
H.B. 1694 (Effective immediately)
H.B. 1870 (Effective August 26, 1985)
H.B. 2001 (Effective immediately)
H.B. 2067 (Effective immediately)
H.B. 2077 (Effective August 26, 1985)
H.B. 2469 (Effective immediately)
H.B. 14 (Effective October 1, 1986)

H.B. 149 (Effective September 1, 1985)
H.B. 377 (Effective August 26, 1985)
H.B. 528 (Effective September 1, 1985)
H.B. 556 (Effective August 26, 1985)
H.B. 917 (Effective August 26, 1985)
H.B. 994 (Effective August 26, 1985)
H.B. 1010 (Effective August 26, 1985)
H.B. 1148 (Effective August 26, 1985)
H.B. 1182 (Effective August 26, 1985)
H.B. 1243 (Effective August 26, 1985)
H.B. 1310 (Effective August 26, 1985)
H.B. 76 (Effective August 26, 1985)
H.B. 95 (Effective September 1, 1985)
H.B. 118 (Effective immediately)
H.B. 128 (Effective September 1, 1985)
H.B. 282 (Effective immediately)
H.B. 335 (Effective immediately)
H.B. 460 (Effective September 1, 1985)
H.B. 539 (Effective immediately)
H.B. 593 (Effective September 1, 1985)
H.B. 797 (Effective August 26, 1985)
H.B. 922 (Effective September 1, 1985)
H.B. 952 (Effective immediately)
H.B. 1345 (Effective September 1, 1985)
H.B. 1533 (Effective September 1, 1985)
H.B. 1561 (Effective August 26, 1985)
H.B. 1823 (Effective August 26, 1985)
H.B. 192 (Effective September 1, 1985)
H.B. 903 (Effective September 1, 1985)
H.B. 1029 (Effective August 26, 1985)
S.C.R. 177
H.C.R. 99
H.C.R. 100
H.C.R. 107
H.C.R. 114
H.C.R. 181
H.C.R. 193
H.C.R. 227

(June 11, 1985)

H.B. 104 (Effective immediately)
H.B. 156 (Effective immediately)
H.B. 181 (Effective November 15, 1985)
H.B. 356 (Effective immediately)
H.B. 650 (Effective immediately)
H.B. 659 (Effective September 1, 1985)
H.B. 685 (Effective immediately)
H.B. 690 (Effective August 26, 1985)
H.B. 892 (Effective August 26, 1985)
H.B. 973 (Effective August 26, 1985)
H.B. 1264 (Effective immediately)
H.B. 1303 (Effective August 26, 1985)
H.B. 1306 (Effective September 1, 1985)
H.B. 1344 (Effective August 26, 1985)

H.B. 1509 (Effective immediately)
H.B. 1528 (Effective October 1, 1985)
H.B. 1572 (Effective August 26, 1985)
H.B. 1819 (Effective August 26, 1985)
H.B. 1883 (Effective immediately)
H.B. 1941 (Effective August 26, 1985)
H.B. 1953 (Effective September 1, 1985)
H.B. 1966 (Effective August 26, 1985)
H.B. 1973 (Effective August 26, 1985)
H.B. 2004 (Effective September 1, 1985)
H.B. 2160 (Effective August 26, 1985)
H.B. 2220 (Effective August 26, 1985)
H.B. 2248 (Effective immediately)
H.B. 2390 (Effective August 26, 1985)
H.B. 2394 (Effective immediately)
H.B. 2404 (Effective immediately)
H.B. 2421 (Effective August 26, 1985)
H.B. 2428 (Effective August 26, 1985)
H.B. 2463 (Effective August 26, 1985)
H.B. 2496 (Effective immediately)
S.B. 48 (Effective August 26, 1985)
S.B. 108 (Effective August 26, 1985)
S.B. 251 (Effective August 26, 1985)
S.B. 291 (Effective September 1, 1985)
S.B. 358 (Effective August 26, 1985)
S.B. 371 (Effective September 1, 1985)
S.B. 402 (Effective immediately)
S.B. 523 (Effective August 26, 1985)
S.B. 524 (Effective September 1, 1985)
S.B. 528 (Effective immediately)
S.B. 545 (Effective immediately)
S.B. 577 (Effective September 1, 1985)
S.B. 589 (Effective September 1, 1985)
S.B. 615 (Effective immediately)
S.B. 623 (Effective immediately)
S.B. 625 (Effective immediately)
S.B. 656 (Effective August 26, 1985)
S.B. 813 (Effective September 1, 1985)
S.B. 821 (Effective August 26, 1985)
S.B. 823 (Effective immediately)
S.B. 858 (Effective September 1, 1985)
S.B. 876 (Effective September 1, 1985)
S.B. 1120 (Effective August 26, 1985)
S.B. 1185 (Effective September 1, 1985)
S.B. 1253 (Effective immediately)
S.B. 1282 (Effective immediately)
S.B. 1292 (Effective immediately)
S.B. 1329 (Effective immediately)
S.B. 1349 (Effective immediately)
S.B. 1353 (Effective immediately)
S.B. 1455 (Effective August 26, 1985)
S.C.R. 176

(June 12, 1985)

H.B. 1052 (Effective August 26, 1985)
H.B. 1075 (Effective August 26, 1985)
H.B. 1478 (Effective August 26, 1985)
H.B. 1747 (Effective August 26, 1985)
H.B. 1947 (Effective September 1, 1985)
H.B. 2076 (Effective August 26, 1985)
H.B. 2358 (Effective September 1, 1985)
H.B. 2359 (Effective August 26, 1985)
H.B. 2370 (Effective immediately)
H.B. 2412 (Effective August 26, 1985)
H.B. 2486 (Effective immediately)
S.B. 59 (Effective August 26, 1985)
S.B. 85 (Effective August 26, 1985)
S.B. 631 (Effective August 26, 1985)
S.B. 633 (Effective immediately)
S.B. 640 (Effective beginning with fall semester, 1985)
S.B. 716 (Effective September 1, 1985)
S.B. 723 (Effective August 26, 1985)
S.B. 842 (Effective August 26, 1985)
S.B. 1173 (Effective August 26, 1985)
S.B. 1289 (Effective August 26, 1985)
S.B. 1342 (Effective immediately)
S.B. 127 (Effective September 1, 1985)
S.B. 162 (Effective August 26, 1985)
S.B. 201 (Effective September 1, 1985)
S.B. 217 (Effective September 1, 1985)
S.B. 255 (Effective August 26, 1985)
S.B. 262 (Effective September 1, 1985)
S.B. 394 (Effective August 26, 1985)
S.B. 419 (Effective immediately)
S.B. 546 (Effective immediately)
S.B. 569 (Effective September 1, 1985)
S.B. 607 (Effective immediately)
S.B. 612 (Effective September 1, 1985)
S.B. 651 (Effective September 1, 1985)
S.B. 670 (Effective September 1, 1985)
S.B. 679 (Effective immediately)
S.B. 738 (Effective August 26, 1985)
S.B. 760 (Effective immediately)
S.B. 802 (Effective August 26, 1985)
S.B. 806 (Effective August 26, 1985)
S.B. 829 (Effective immediately)
S.B. 966 (Effective September 1, 1985)
S.B. 1115 (Effective September 1, 1985)
S.B. 1193 (Effective immediately)
S.B. 1280 (Effective immediately)
S.B. 1331 (Effective August 26, 1985)
S.B. 1336 (Effective immediately)
S.B. 1341 (Effective September 1, 1985)
S.B. 1378 (Effective immediately)
S.B. 1442 (Effective August 26, 1985)

S.B. 1487 (Effective immediately)
H.B. 46 (Effective immediately)
H.B. 231 (Effective September 1, 1985)
H.B. 241 (Effective September 1, 1985)
H.B. 271 (Effective August 26, 1985)
H.B. 373 (Effective September 1, 1985)
H.B. 393 (Effective August 26, 1985)
H.B. 626 (Effective September 1, 1985)
H.B. 773 (Effective August 26, 1985)
H.B. 875 (Effective August 26, 1985)
H.B. 913 (Effective September 1, 1985)
H.B. 916 (Effective August 26, 1985)
H.B. 1037 (Effective September 1, 1985)
H.B. 1114 (Effective August 26, 1985)
H.B. 1247 (Effective immediately)
H.B. 1252 (Effective August 26, 1985)
H.B. 1351 (Effective September 1, 1985)
H.B. 1449 (Effective immediately)
H.B. 1889 (Effective August 26, 1985)
H.B. 1912 (Effective September 1, 1985)
H.B. 1965 (Effective August 26, 1985)
H.B. 1992 (Effective August 26, 1985)
H.B. 2036 (Effective immediately)
H.B. 2053 (Effective August 26, 1985)
H.B. 2089 (Effective August 26, 1985)
H.B. 2139 (Effective September 1, 1985)
H.B. 2151 (Effective immediately)
H.B. 2162 (Effective August 26, 1985)
H.B. 2177 (Effective August 26, 1985)
H.B. 2195 (Effective August 26, 1985)
H.B. 2219 (Effective August 26, 1985)
H.B. 2229 (Effective August 26, 1985)
H.B. 2240 (Effective August 26, 1985)
H.B. 2287 (Effective September 1, 1985)
H.B. 2376 (Effective August 26, 1985)
H.B. 2388 (Effective August 26, 1985)
H.B. 2405 (Effective immediately)
H.B. 2443 (Effective immediately)
H.B. 2473 (Effective August 26, 1985)
H.B. 48 (Effective September 1, 1985)
H.B. 740 (Effective immediately)
H.C.R. 141
S.C.R. 128

(June 13, 1985)

S.B. 37 (Effective September 1, 1985)
S.B. 169 (Effective December 1, 1985, if S.J.R. 16 is approved by voters)
S.B. 415 (Effective September 1, 1985)
S.B. 869 (Effective September 1, 1985)
S.B. 1302 (Effective September 1, 1985)
S.B. 1303 (Effective September 1, 1985)
S.B. 1304 (Effective immediately)
H.B. 10 (Effective August 26, 1985)

H.B. 235 (Effective September 1, 1985)
H.B. 309 (Effective September 1, 1985)
H.B. 579 (Effective September 1, 1985)
H.B. 747 (Effective September 1, 1985)
H.B. 1023 (Effective September 1, 1985)
H.B. 1106 (Effective September 1, 1985)
H.B. 1191 (Effective September 1, 1985)
H.B. 1378 (Effective September 1, 1985)
H.B. 1929 (Effective September 1, 1985)
H.B. 1963 (Effective August 26, 1985)
H.B. 2520 (Effective August 26, 1985)
S.B. 1458 (Effective immediately)
S.B. 320 (Effective September 1, 1985)
S.B. 346 (Effective September 1, 1985)
S.C.R. 14

(June 14, 1985)

H.B. 712 (Effective September 1, 1985)
H.B. 870 (Effective August 26, 1985)
H.B. 938 (Effective September 1, 1985)
H.B. 1220 (Effective January 1, 1986)
H.B. 1225 (Effective January 1, 1986)
H.B. 1240 (Effective August 26, 1985)
H.B. 1307 (Effective August 26, 1985)
H.B. 1376 (Effective immediately)
H.B. 1442 (Effective August 26, 1985)
H.B. 1481 (Effective immediately)
H.B. 1585 (Effective September 1, 1985)
H.B. 1744 (Effective August 26, 1985)
H.B. 1824 (Effective August 26, 1985)
H.B. 1908 (Effective September 1, 1985)
H.B. 1921 (Effective immediately)
H.B. 1959 (Effective September 1, 1985)
H.B. 2010 (Effective immediately)
H.B. 2211 (Effective August 26, 1985)
H.B. 2212 (Effective immediately)
H.B. 2213 (Effective immediately)
H.B. 2214 (Effective immediately)
H.B. 2299 (Effective August 26, 1985)
H.B. 2302 (Effective August 26, 1985)
S.B. 72 (Effective September 1, 1985)
S.B. 30 (Effective September 1, 1985)
S.B. 118 (Effective September 1, 1985)
S.B. 125 (Effective August 26, 1985)
S.B. 203 (Effective September 1, 1985)
S.B. 204 (Effective September 1, 1985)
S.B. 205 (Effective September 1, 1985)
S.B. 209 (Effective September 1, 1985)
S.B. 221 (Effective immediately)
S.B. 229 (Effective September 1, 1985)
S.B. 254 (Effective September 1, 1985)
S.B. 261 (Effective September 1, 1985)
S.B. 283 (Effective September 1, 1985)
S.B. 300 (Effective September 1, 1985)

S.B. 1367 (Effective August 26, 1985)
S.B. 1450 (Effective September 1, 1985)
S.B. 575 (Effective immediately)
S.B. 105 (Effective September 1, 1985)
S.B. 119 (Effective immediately)
S.B. 384 (Effective September 1, 1985)
S.B. 463 (Effective immediately)
S.B. 609 (Effective immediately)
S.B. 718 (Effective immediately)
S.B. 926 (Effective September 1, 1985)
S.B. 969 (Effective September 1, 1985)
S.B. 1018 (Effective immediately)
S.B. 1055 (Effective immediately)
S.B. 1125 (Effective immediately)
S.B. 1152 (Effective August 26, 1985)
S.B. 1153 (Effective immediately)
S.B. 1171 (Effective August 26, 1985)
S.B. 1309 (Effective immediately)
S.B. 1348 (Effective immediately)
S.B. 344 (Effective September 1, 1985)
S.B. 382 (Effective September 1, 1985)
S.B. 440 (Effective August 26, 1985)
S.B. 466 (Effective September 1, 1985)
S.B. 469 (Effective September 1, 1985)
S.B. 513 (Effective immediately)
S.B. 527 (Effective August 26, 1985)
S.B. 548 (Effective August 26, 1985)
S.B. 550 (Effective September 1, 1985)
S.B. 699 (Effective August 26, 1985)
S.B. 700 (Effective immediately)
S.B. 791 (Effective January 1, 1986)
S.B. 807 (Effective September 1, 1985)
S.B. 820 (Effective immediately)
S.B. 909 (Effective immediately)
S.B. 910 (Effective immediately)
S.B. 1002 (Effective August 26, 1985)
S.B. 1083 (Effective August 26, 1985)
S.B. 1139 (Effective immediately)
S.B. 1243 (Effective September 1, 1985)
S.B. 1245 (Effective August 26, 1985)
S.B. 1257 (Effective immediately)
S.B. 1270 (Effective immediately)
S.B. 1294 (Effective August 26, 1985)
S.B. 1355 (Effective immediately)
S.B. 1400 (Effective August 26, 1985)
S.B. 1420 (Effective immediately)
S.B. 1421 (Effective immediately)
S.B. 1426 (Effective immediately)
S.B. 1427 (Effective immediately)
S.B. 1435 (Effective August 26, 1985)
S.B. 1465 (Effective August 26, 1985)
S.B. 1466 (Effective August 26, 1985)
S.B. 79 (Effective August 26, 1985)
S.B. 270 (Effective August 26, 1985)

S.B. 493 (Effective September 1, 1985, except as provided by Section 51)
S.B. 538 (Effective immediately)
S.B. 596 (Effective August 26, 1985)
S.B. 601 (Effective September 1, 1985, except as provided by Subsections (b), (c) and (d) of Section 31)
S.B. 725 (Effective September 1, 1985)
S.B. 746 (Effective August 26, 1985)
S.B. 782 (Effective August 26, 1985)
S.B. 903 (Effective August 26, 1985)
S.B. 911 (Effective August 26, 1985)
S.B. 923 (Effective August 26, 1985)
S.B. 967 (Effective August 26, 1985)
S.B. 1034 (Effective September 1, 1985)
S.B. 1105 (Effective immediately)
S.B. 1170 (Effective August 26, 1985)
S.B. 1186 (Effective immediately)
S.B. 1272 (Effective August 26, 1985)
S.B. 1377 (Effective August 26, 1985)
S.B. 1388 (Effective January 1, 1986, except as provided by Subsection (b) of Section 4)
H.B. 1147 (Effective August 26, 1985)
H.B. 13 (Effective August 26, 1985)
H.B. 85 (Effective September 1, 1985)
H.B. 387 (Effective August 26, 1985)
H.B. 449 (Effective immediately)
H.B. 475 (Effective September 1, 1985)
H.B. 743 (Effective September 1, 1985)
H.B. 919 (Effective September 1, 1985)
H.B. 986 (Effective August 26, 1985)
H.B. 1193 (Effective August 26, 1985)
H.B. 1346 (Effective August 26, 1985)
H.B. 1391 (Effective August 26, 1985)
H.B. 2096 (Effective August 26, 1985)
H.B. 2207 (Effective immediately)
H.B. 2298 (Effective August 26, 1985)
H.B. 2371 (Effective September 1, 1985)
H.B. 2420 (Effective August 26, 1985)
H.B. 2423 (Effective August 26, 1985)
H.B. 2434 (Effective immediately)
H.B. 2436 (Effective immediately)
H.B. 2458 (Effective September 1, 1985)
H.B. 2459 (Effective immediately)
H.B. 2474 (Effective January 1, 1986)
H.B. 2479 (Effective August 26, 1985)
H.B. 2487 (Effective immediately)
H.B. 2488 (Effective August 26, 1985)
H.B. 2499 (Effective August 26, 1985)
H.B. 2502 (Effective September 1, 1985)
H.B. 2511 (Effective immediately)
H.B. 2512 (Effective immediately)
H.B. 2522 (Effective immediately)

H.B. 1425 (Effective August 26, 1985)
H.B. 1426 (Effective immediately)
H.B. 1429 (Effective September 1, 1985)
H.B. 1569 (Effective January 1, 1986)
H.B. 1573 (Effective September 1, 1985)
H.B. 1656 (Effective August 26, 1985)
H.B. 1731 (Effective September 1, 1985)
H.B. 1774 (Effective September 1, 1985)
H.B. 1788 (Effective immediately)
H.B. 1802 (Effective September 1, 1985)
H.B. 1825 (Effective August 26, 1985)
H.B. 1856 (Effective August 26, 1985)
H.B. 1866 (Effective immediately)
H.B. 1874 (Effective August 26, 1985)
H.B. 1976 (Effective September 1, 1985)
H.B. 2043 (Effective immediately)
H.B. 2407 (Effective immediately)
H.B. 2408 (Effective immediately)
H.B. 2470 (Effective immediately)
H.B. 2478 (Effective immediately)
H.B. 2490 (Effective immediately)
H.B. 2513 (Effective immediately)
H.B. 2514 (Effective immediately)
H.B. 162 (Effective September 1, 1985)
H.B. 163 (Effective September 1, 1985)
H.B. 167 (Effective September 1, 1985)
H.B. 168 (Effective September 1, 1985)
H.B. 501 (Effective August 26, 1985)
H.B. 504 (Effective August 26, 1985)
H.B. 553 (Effective September 1, 1985)
H.B. 655 (Effective September 1, 1985)
H.B. 900 (Effective immediately)
H.B. 948 (Effective August 26, 1985)
H.B. 978 (Effective September 1, 1985)
H.B. 993 (Effective immediately)
H.B. 1214 (Effective immediately)
H.B. 1349 (Effective August 26, 1985, with the exception of Section 11 which is effective October 1, 1985)
H.B. 1374 (Effective September 1, 1985)
H.B. 1401 (Effective September 1, 1985)
H.B. 1525 (Effective September 1, 1985)
H.B. 1591 (Effective August 26, 1985)
H.B. 1658 (Effective January 1, 1986)
H.B. 1681 (Effective August 26, 1985)
H.B. 1702 (Effective September 1, 1985)
H.B. 1844 (Effective September 1, 1985)
H.B. 1861 (Effective immediately)
H.B. 2012 (Effective September 1, 1985)
H.B. 2410 (Effective August 26, 1985)
H.B. 2444 (Effective immediately)
H.B. 2457 (Effective immediately)
S.C.R. 90
H.C.R. 203

H.C.R. 78

(June 15, 1985)

S.B. 249 (Effective August 26, 1985)
S.B. 290 (Effective upon adoption of S.J.R. 14)
S.B. 381 (Effective immediately)
S.B. 544 (Effective August 26, 1985)
S.B. 632 (Effective September 1, 1985, except as provided by Subsection (b) of Section 11)
S.B. 652 (Effective September 1, 1985)
S.B. 660 (Effective immediately)
S.B. 793 (Effective August 26, 1985)
S.B. 840 (Effective August 26, 1985)
S.B. 866 (Effective September 1, 1985)
S.B. 1007 (Effective September 1, 1985, except Sections 6 and 14 effective January 1, 1986 and Subsection (a) of Section 4 and Sections 5 and 13 effective January 1, 1987)
S.B. 1169 (Effective August 26, 1985)
S.B. 1254 (Effective immediately)
S.B. 1443 (Effective August 26, 1985)
S.B. 192 (Effective immediately)
S.B. 195 (Effective September 1, 1985)
S.B. 267 (Effective August 26, 1985)
S.B. 316 (Effective September 1, 1985, Except as provided by Subsection (b) of Section 24)
S.B. 482 (Effective immediately)
S.B. 719 (Effective immediately)
S.B. 754 (Effective August 26, 1985)
S.B. 955 (Effective September 1, 1985)
S.B. 1052 (Effective immediately)
S.B. 1122 (Effective September 1, 1985)
S.B. 1128 (Effective immediately)
S.B. 1184 (Effective August 26, 1985)
S.B. 1187 (Effective immediately)
S.B. 1232 (Effective immediately)
S.B. 1295 (Effective September 1, 1985)
S.B. 1300 (Effective immediately)
S.B. 1301 (Effective August 26, 1985)
S.B. 1321 (Effective August 26, 1985)
S.B. 1330 (Effective immediately)
S.B. 1344 (Effective September 1, 1985)
S.B. 1361 (Effective immediately)
S.B. 1391 (Effective immediately)
S.B. 1452 (Effective immediately)
S.B. 831 (Effective September 1, 1985)
S.B. 851 (Effective immediately)
S.B. 863 (Effective September 1, 1985)
S.B. 908 (Effective January 1, 1986)
S.B. 978 (Effective immediately)

S.B. 993 (Effective September 1, 1985)
S.B. 1063 (Effective September 1, 1985)
S.B. 1093 (Effective immediately)
S.B. 1222 (Effective immediately)
S.B. 1238 (Effective September 1, 1985)
S.B. 1356 (Effective immediately)
S.B. 1357 (Effective immediately)
S.B. 1358 (Effective immediately)
S.B. 1359 (Effective immediately)
S.B. 1360 (Effective immediately)
S.B. 500 (Effective September 1, 1985, except as provided by Subsection (b) of Section 4)
S.B. 844 (Effective August 26, 1985)
S.B. 957 (Effective immediately)
H.B. 267 (Effective immediately)
H.B. 560 (Effective September 1, 1985)
H.B. 832 (Effective August 26, 1985)
H.B. 895 (Effective September 1, 1985)
H.B. 987 (Effective August 26, 1985)
H.B. 1119 (Effective August 26, 1985, except Sections 24.005, 24.006 and 24.007, Property Code, as amended by this Act take effect September 1, 1985)
H.B. 1205 (Effective immediately)
H.B. 1333 (Effective immediately)
H.B. 1365 (Effective September 1, 1985)
H.B. 1403 (Effective immediately)
H.B. 1433 (Effective immediately)
H.B. 1584 (Effective August 26, 1985)
H.B. 1628 (Effective immediately)
H.B. 1655 (Effective immediately)
H.B. 1657 (Effective September 1, 1985)
H.B. 1760 (Effective September 1, 1985)
H.B. 1811 (Effective immediately)
H.B. 2068 (Effective September 1, 1985)
H.B. 2092 (Effective August 26, 1985)
H.B. 2210 (Effective immediately)
H.B. 2245 (Effective immediately)
H.B. 2331 (Effective August 26, 1985)
H.B. 2391 (Effective immediately)
H.B. 2413 (Effective immediately)
H.B. 2435 (Effective immediately)
S.B. 317 (Effective August 26, 1985)
S.B. 608 (Effective immediately)
S.B. 830 (Effective immediately)
S.B. 980 (Effective August 26, 1985)
S.B. 1267 (Effective September 1, 1985)
H.B. 1741 (Effective September 1, 1985)
H.B. 2259 (Effective August 26, 1985)
H.B. 2344 (Effective August 26, 1985)
H.B. 2387 (Effective August 26, 1985)
H.B. 2395 (Effective immediately)
H.B. 2414 (Effective immediately)

H.B. 2438 (Effective August 26, 1985)
H.B. 2447 (Effective immediately)
S.B. 175 (Effective September 1, 1985)
S.B. 455 (Effective September 1, 1985)
H.B. 2091 (Effective September 1, 1985, except Sections 4 and 10 effective January 1, 1986)
H.B. 2409 (Effective immediately)
H.B. 2461 (Effective August 26, 1985)
H.B. 151 (Effective immediately)
H.B. 157 (Effective August 26, 1985)
H.B. 256 (Effective September 1, 1985)
H.B. 276 (Effective August 26, 1985)
H.B. 478 (Effective September 1, 1985)
H.B. 479 (Effective August 26, 1985)
H.B. 711 (Effective September 1, 1985)
H.B. 744 (Effective August 26, 1985)
H.B. 745 (Effective September 1, 1985)
H.B. 746 (Effective August 26, 1985)
H.B. 749 (Effective August 26, 1985)
H.B. 788 (Effective September 1, 1985)
H.B. 805 (Effective September 1, 1985)
H.B. 873 (Effective August 26, 1985)
H.B. 1120 (Effective September 1, 1985)
H.B. 1304 (Effective August 26, 1985)
H.B. 1695 (Effective August 26, 1985)
H.B. 1718 (Effective August 26, 1985)
H.B. 1732 (Effective September 1, 1985)
H.B. 1867 (Effective immediately)
H.B. 1952 (Effective August 26, 1985)
H.B. 1955 (Effective January 2, 1986)
H.B. 2034 (Effective August 26, 1985)
H.B. 2168 (Effective August 26, 1985)
H.B. 2329 (Effective September 1, 1985)
H.B. 61 (Effective immediately)
H.B. 433 (Effective August 26, 1985)
H.B. 473 (Effective September 1, 1985)
H.B. 488 (Effective September 1, 1985)
H.B. 802 (Effective September 1, 1985)
H.B. 874 (Effective August 26, 1985)
H.B. 1278 (Effective September 1, 1985)
H.B. 1335 (Effective August 26, 1985)
H.B. 1385 (Effective immediately)
H.B. 1463 (Effective September 1, 1985)
H.B. 1592 (Effective September 1, 1985)
H.B. 1775 Effective August 26, 1985)
H.B. 1803 (Effective September 1, 1985)
H.B. 1985 (Effective January 1, 1986)
H.B. 2107 (Effective September 1, 1985)
H.B. 2005 (Effective August 26, 1985)
H.B. 2198 (Effective immediately)
H.B. 2290 (Effective August 26, 1985)
H.B. 2386 (Effective September 1, 1985)
H.B. 2418 (Effective August 26, 1985)

H.B. 2433 (Effective September 1, 1985)
S.B. 32 (Effective August 26, 1985)
S.B. 681 (Effective September 1, 1985)
S.B. 1242 (Effective September 1, 1985 as provided under Subsection (a) of Section 8 and September 1, 1986 as provided under Subsection (b) of same section)
H.B. 1216 (Effective September 1, 1985)
H.C.R. 184
H.C.R. 33
H.C.R. 75
H.C.R. 156
H.C.R. 172
H.C.R. 173
H.C.R. 209
H.C.R. 217
H.C.R. 223
H.C.R. 224
H.C.R. 225
S.C.R. 62
S.C.R. 63
S.C.R. 65
S.C.R. 72
S.C.R. 92
S.C.R. 94
S.C.R. 115
S.C.R. 142
S.C.R. 145
S.C.R. 165
S.C.R. 181

(June 16, 1985)

H.B. 20 (Effective September 1, 1985)

Filed Without Signature of Governor
(June 10, 1985)

S.B. 69 (Effective immediately)
S.B. 1470 (Effective September 1, 1985)

(June 11, 1985)

H.B. 1132 (Effective immediately)
H.B. 1485 (Effective immediately)

(June 13, 1985)

S.B. 289 (Effective immediately)
S.B. 574 (Effective September 1, 1985)
S.B. 1228 (Effective September 1, 1985)

(June 15, 1985)

S.B. 5 (Effective immediately)
S.B. 465 (Effective August 26, 1985)
S.B. 540 (Effective September 1, 1985)
S.B. 797 (Effective September 1, 1985)

S.B. 809 (Effective January 1, 1986)
S.B. 811 (Effective August 26, 1985)
S.B. 1224 (Effective immediately)
S.B. 1297 (Effective August 26, 1985)
S.B. 1376 (Effective August 26, 1985)
S.B. 1415 (Effective August 26, 1985)
S.B. 1484 (Effective immediately)
S.B. 141 (Effective September 1, 1985)
S.B. 454 (Effective August 26, 1985)
S.B. 233 (Effective August 26, 1985)
S.B. 549 (Effective August 26, 1985)
S.B. 839 (Effective August 26, 1985)
S.B. 1167 (Effective August 26, 1985)
S.B. 1246 (Effective August 26, 1985)
S.B. 1264 (Effective immediately)
S.B. 1273 (Effective immediately)
S.B. 1335 (Effective upon approval of S.J.R. 29)
H.B. 403 (Effective September 1, 1985)
H.B. 435 (Effective August 26, 1985)
H.B. 1173 (Effective August 26, 1985)
H.B. 1281 (Effective September 1, 1985)
H.B. 1837 (Effective immediately)
H.B. 1846 (Effective August 26, 1985)
H.B. 1911 (Effective August 26, 1985)
H.B. 1957 (Effective August 26, 1985)
H.B. 1986 (Effective August 26, 1985)
H.B. 2509 (Effective August 26, 1985)
H.B. 44 (Effective August 26, 1985)
H.B. 569 (Effective August 26, 1985)
H.B. 695 (Effective August 26, 1985)
H.B. 756 (Effective September 1, 1986)
H.B. 1164 (Effective September 1, 1985)
H.B. 1287 (Effective immediately)
H.B. 2161 (Effective August 26, 1985)
H.B. 2222 (Effective August 26, 1985)
H.B. 2247 (Effective immediately)
H.B. 2325 (Effective August 26, 1985)
H.B. 2431 (Effective September 1, 1985)

S.C.R. 73
S.C.R. 84
S.C.R. 108
S.C.R. 109
S.C.R. 110
S.C.R. 111
S.C.R. 130
S.C.R. 131
S.C.R. 135
S.C.R. 140
S.C.R. 144
S.C.R. 147
S.C.R. 151
S.C.R. 152
S.C.R. 153

H.C.R. 206
H.C.R. 219
H.C.R. 226
H.C.R. 228
H.C.R. 106
H.C.R. 259
H.C.R. 131
H.C.R. 241
H.C.R. 133
H.C.R. 153
H.C.R. 191
H.C.R. 205
H.C.R. 207
H.C.R. 211
H.C.R. 213

S.C.R. 155	H.C.R. 229
S.C.R. 156	H.C.R. 237
S.C.R. 188	H.C.R. 239
H.C.R. 42	H.C.R. 257
H.C.R. 192	S.C.R. 2
H.C.R. 204	S.C.R. 11

The following bills and resolutions were vetoed by the Governor:

H.C.R. 72		
H.C.R. 137	H.B. 36	H.B. 1879
H.C.R. 235	H.B. 226	H.B. 2174
S.C.R. 100	H.B. 482	H.B. 2316
S.C.R. 143	H.B. 580	H.B. 2349
S.B. 189	H.B. 741	H.B. 2377
S.B. 334	H.B. 748	H.B. 2399
S.B. 518	H.B. 784	H.B. 2419
S.B. 765	H.B. 910	H.B. 2439
S.B. 1081	H.B. 1273	H.B. 2449
S.B. 1126	H.B. 1323	H.B. 2453
S.B. 1155	H.B. 1389	H.B. 2450
S.B. 1225	H.B. 1543	H.B. 2451
S.B. 1247	H.B. 1706	H.B. 2452
S.B. 1320	H.B. 1717	H.B. 2454
S.B. 1454	H.B. 1776	H.B. 2497

PROCLAMATIONS BY THE GOVERNOR

The following Proclamations by the Governor state reasons for vetoing bills:

TO ALL TO WHOM THESE PRESENTS SHALL COME:

June 16, 1985

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 189 because of the following objection:

This bill would permit any individual to have ex parte written communications with state agency decision-makers in contested cases and could violate due process and the right to confrontation and cross-examination. Agencies in this state have established an outstanding record of integrity and fairness in these quasi-judicial proceedings. Such sanctity of this decision-making process has engendered trust in the eyes of the public and the judiciary. To permit enactment of this bill could seriously undermine the integrity and trustworthiness of these adjudicatory proceedings and could add to the time and expense to the parties and the courts.

Therefore, I veto **S.B. 189**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 334 because of the following objection:

This bill authorizes the employment and significant salary increase for the position of mental health administrator for Probate Court No. 3 of Harris County. Currently this position is funded at the same level as other court administrators. The Harris County Commissioners Court unanimously requests a veto of this bill, urging that its funding presents budgetary concerns and that it provides for preferential treatment for one administrator position. Because these matters relating to funding and employment are local matters, they should be resolved by the governmental entity affected thereby.

Therefore, I veto **S.B. 334**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 765 because of the following objection:

This bill would legalize the manufacture of gambling machines in this State if such machines were manufactured for or contracted for sale outside Texas.

Enactment of this legislation would set a bad precedent and would be bad public policy in our State where the use of such machines is illegal.

Therefore, I veto **S.B. 765**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1081 because of the following objection:

This bill would authorize municipalities by ordinance to license and regulate private vehicles for hire. However, it contains language authorizing these municipalities to act "on behalf of the state as sovereign". Thus, it is subject to the construction that these municipalities are acting agents of the state in performing these responsibilities. This is bad precedent and a dangerous delegation of authority.

Therefore, I veto **S.B. 1081**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1126 because of the following objection:

This bill would allow the State Board of Insurance to bypass the current notice requirement dealing with summary procedures involving routine matters.

It is important that the people have notice and the right to participate in the decision making process of our state regardless of whether this Board might characterize the proceeding as routine. This bill could restrict that right to access of information by our citizens.

Therefore, I veto **S.B. 1126**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1155 because of the following objection:

This bill was incorporated into **S.B. 249**, which was also approved by the Sixty-ninth Legislature and carries the true intent of the parties involved.

Therefore, I veto **S.B. 1155**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1225, because of the following objection:

A utility district in Texas can be created in two ways: 1) by the Texas Water Commission through the hearing process; and 2) by the Legislature during its biennial session through the regular legislative process. Both the Commission and the Legislative processes are designed to insure a standard and equitable procedure which applies to all applicants with no special advantage given to any applicant. These processes are a prerequisite to insure a sound legal and financial policy for all parties concerned, including the State.

S.B. 1225 grants special and unusual powers to the Sunnyvale Municipal Utility District No. 1 and separates this applicant from all others. It authorized the District to divide into two or more districts prior to the issuing of bond indebtedness and the levying of ad valorem taxes. In this respect, **S.B. 1225** is a special privilege bill not available to other utility districts. It would allow the Sunnyvale Municipal Utility District No. 1 to become a legislature and commission unto itself and would circumvent the statutory authority granted to those entities.

In creating utility districts, a fair and standard public policy must be applied to all applicants. If the Sunnyvale Municipal Utility District No. 1 is good public policy, then it should be made available to all utility districts. If it is bad public policy, it should not be applied to any districts. The absence of this policy in creating other districts in the State supports the historical reasoning that the Commission and the Legislature has forbidden special advantages to a few districts.

Therefore, I veto **S.B. 1225**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1247 because of the following objection:

This bill would have the effect of unduly restricting the discretionary authority of the Public Utility Commission to deal with questions involving the certification of areas in a municipality to be served by an electric utility.

This bill sets a bad precedent by unduly interfering with the regulatory authority that the Legislature has given to the Public Utility Commission.

Therefore, I veto **S.B. 1247**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1320 because of the following objection:

This bill is the companion bill to House Bill 2395 which was also approved by the Sixty-ninth Legislature. **H.B. 2395** carries the true intent of the parties involved.

Therefore, I veto **S.B. 1320**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 1454 because of the following objection:

Through an inadvertent oversight, **S.B. 1454** failed to receive a record vote sufficient to make the bill effective immediately upon signing. **S.B. 1454** was intended to provide an emergency appropriation for the National Guard Armory Board's utilities for June through August 1985. Because **S.B. 1454** is now a 90-day bill, it can only pay for utilities encumbered for the August 26 - 31 period, and as such cannot achieve its original purpose. Since the Legislature has adjourned, I have issued an Emergency and Deficiency grant to the Board in the amount of $156,000 to meet the agency's needs for the balance of this fiscal year.

Therefore, I veto **S.B. 1454**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Concurrent Resolution 100 for the following objection:

This Resolution directs the Texas Coastal and Marine Council to investigate the feasibility of ports in Texas creating litter reduction facilities.

This Resolution has been rendered inoperative because this state agency's existence expired due to the provisions of Article 5429K, V.C.S.

Therefore, I veto **S.C.R. 100**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Concurrent Resolution 143 because of the following objection:

D. Dave Bentrup and Verla A. Bentrup filed and prosecuted a suit against the Texas Alcoholic Beverage Commission which involved allegations identical to those made the subject of this resolution. The cause was tried to a federal court jury in Galveston County, Texas. The jury ruled against them. Thereafter, the Court awarded the Bentrups nominal damages. That cause was not appealed and has been

finally concluded. In addition, the State has paid $12,000 in attorney fees in that case.

The allegations giving rise to this resolution to sue are the same as were presented to the federal court. To permit the enactment of this resolution to sue would only serve to waste the state's resources in continuing to defend this lawsuit, and would only further congest the already-crowded state court dockets and require the Attorney General of Texas to continue to defend a second lawsuit based upon the same facts. Because of the waste to the taxpayers and the fact that the Bentrups have already had an opportunity to litigate this claim, I veto Senate Concurrent Resolution 143.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 36 because of the following objection:

The provisions of this bill are contained in Senate Bill 455. **S.B. 455** expresses the true interest of the Legislature. The sponsor of this bill has, therefore, requested that it be vetoed.

Therefore, I veto **H.B. 36**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 226 because of the following objections:

This bill significantly alters a well-established and accepted legal standard under which the State is liable to pay a judgment under the Official Indemnity Act. It broadens the scope and liability to require the state to pay such judgments unless a court found that the employee acted with malice. This would virtually indemnify nearly all acts or omissions of an employee, even those committed in bad faith, and would broaden the accepted criteria for determining the state's liability.

It is important that we continue to stand behind our state employees with legal representation and indemnification when their acts or omissions are the subject of lawsuits when they have faithfully performed their duties according to the requirements of the law. The State should not, however, accept liability for any acts committed in bad faith.

The bill also provides for reimbursement to employees for legal expenses incurred when they are charged with criminal offenses if those allegations are later dismissed without an adjudication of guilt if the allegations stem from acts which occurred during the performance of their official duties. While there should be some mechanism to protect our state's employees from vexatious or overzealous prosecution involving unfounded allegations, this provision of the bill does not sufficiently restrict its application to those situations and does not adequately define when the state would be obligated to pay for an employee's legal fees. The bill should be more narrowly drawn.

While the general purpose of this bill is worthy of support, it needs to be more carefully restricted in coverage to provide financial assistance to only those state employees who have been wrongly or falsely accused of crimes in conjunction with their official duties or who have otherwise performed their duties in accordance with accepted legal standards.

Therefore, I veto **H.B. 226**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 482 because of the following objection:

The responsibility of an executor or administrator with will annexed to defend or prosecute any proceeding to cause a will to be admitted to probate is well

established and the law properly allows the executor or administrator with will annexed to be allowed out of the estate his necessary expenses and disbursements, including reasonable attorney's fees, in such proceedings. The further extension of this right to a devisee, legatee, or beneficiary could result in needless diminution of the assets of the estate and unnecessarily encourage litigation. In my view, the award of expenses, including attorney's fees to parties other than the executor named by the testator or the administrator with will annexed named by the probate court, could in many instances unduly reduce the value of testamentary shares intended for the benefit of beneficiaries not involved in challenges to the will.

Therefore, I veto **H.B. 482.**

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto Senate Bill 518 because of the following objections:

This bill requires the Board of Pardons and Paroles to set a tentative parole release date for inmates shortly after their arrival at the Texas Department of Corrections, based in part upon objective statistical criteria.

While certain aspects of this bill are laudable, the bill could restrict the discretion entrusted to the Board of Pardons and Paroles in determining the time, terms and conditions under which a prisoner is released. The Board already has the authority to assess a prisoner's parole eligibility criteria and to identify a tentative release date. It is of paramount importance that the Board have the opportunity to effectuate its mandate to examine each prisoner's rehabilitation and worthiness to be released for parole on a case-by-case basis.

I do not believe that the Board's discretion should be limited by statute. Because this bill would establish a procedure which could be interpreted to require the Board to release prisoners earlier than might be prudent, it establishes questionable policy. No prisoner should be released until he has either served his entire sentence or shown by his conduct and other circumstances that he can be safely released into society.

Therefore, I veto **S.B. 518.**

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 580 because of the following objection:

While I support the intent of this legislation and commend Representative Steve Carriker and Senator Ray Farabee for their support of the bill, the intent of House Bill 580 is contained in Senate Bill 16. Inasmuch as Senate Bill 16 passed the legislature subsequent to House Bill 580, Senate Bill 16 represents the last statement of intent of the legislature on this subject. I have previously signed Senate Bill 16 into law.

Therefore, I veto **H.B. 580.**

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 741 because of the following objection:

This bill could permit school districts to acquire real property through lease-purchase agreements. The current practice of requiring voter approval of bond issues to finance facility construction and acquisition could be circumvented by utilization of lease-purchase agreements and could result in greater costs to school districts because the true interest rate associated with lease-purchase arrangements is generally higher than competitively bid funded debt.

The acquisition of major facilities by school districts should be a decision for local voters.

Therefore, I veto **H.B. 741**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 748 because of the following objection:

H.B. 748 authorizes the judge of a statutory probate court to appoint a surrogate judge to carry out the responsibilities of the judge. This bill would permit an unconstitutional delegation of the powers and responsibilities of the judiciary to an individual selected by the probate judge. Further, this bill unconstitutionally permits the exercise of judicial functions by one who is neither elected or appointed in compliance with the requirements of the Constitution.

Therefore, I veto **H.B. 748**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 784 because of the following objection:

The enactment of this legislation might unnecessarily interfere with the policy considerations and recommendations that will be made by the Select Committee on Higher Education. It enacts another method of taxation which would unduly interfere with this Committee's options and alternatives for improving the quality of higher education in Texas.

Additionally, this bill originally was introduced to address the efforts of Lamar Consolidated I.S.D. (Fort Bend County) to erect and maintain a permanent branch campus of Wharton Junior College. The local election failed in April. Thus, this bill is unnecessary to address its original purpose.

Therefore, I veto **H.B. 784**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 910 because of the following objection:

This bill violates Article III, Section 55 of the Texas Constitution.

Therefore, I veto **H.B. 910**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1273 because of the following objection:

This bill repeals the authority of the Texas Aeronautics Commission to administer the Obstruction to Air Navigation Act which was passed during the Sixty-eighth Legislature.

Allowing the repeal of this legislation would reduce the regulation in this vital area of our law and could pose a substantial risk to the safety of our citizens who travel by air. Although this program has not been funded, I believe it far better to continue the authority of the Commission in this safety related area with the goal of future funding, rather than to repeal the law in its entirety.

Therefore, I veto **H.B. 1273**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1323 because of the following objection:

This bill would seriously undermine the finality of state criminal convictions. Executive clemency is available for any defendant who was wrongly convicted.

Therefore, I veto **H.B. 1323**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1389 because of the following objection:

In 1973, Texas passed some of the strongest campaign finance and reporting laws in the nation. These laws have been modified and improved since that time. The sponsors of this bill intend to make further improvements. However, it is important that these laws maintain the tough standards, and firm timetables along with the strong penalties for those who violate these laws. Less stringent standards could deprive voters of information regarding the source and amount of funds obtained by candidates prior to the election proceedings. If these strong laws are modified, anyone who receives a contribution which is not accurately reported could claim inadvertence after the election, thus depriving the people of this state of their right to know.

Therefore, I veto **H.B. 1389**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1543 because of the following objections:

While I am strongly committed to the concept of neighborhood schools and the resulting positive peer support attainable for children who attend neighborhood schools, House Bill 1543 imposes arbitrary percentage requirements on the student assignment responsibilities of school districts. The bill further places unnecessarily cumbersome administrative burdens on our local school districts. I am convinced that the overwhelming majority of school administrators and school board members support the concept of neighborhood schools. Therefore, I firmly believe that local control and administrative flexibility is appropriate in the area of student school assignment.

I have noted that the legislature has expressed its support for neighborhood schools in Rider 19 of the Texas Education Agency budget contained in House Bill 20, the General Appropriations Act of the 69th Legislature, Regular Session. As mandated by this rider, the Texas Education Agency will monitor compliance with the intent of the legislature to encourage neighborhood schools. I commend this expression of legislative intent.

Therefore, I do hereby veto **H.B. 1543**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1706 because of the following objection:

This bill creates another method by which alcoholic beverages may be made available to the public in dry counties. It would permit private club owners and various organizations to sell alcoholic beverages in public areas. There is no provision for a local option vote by the citizens affected by this measure to express their opposition or support for further accessibility of intoxicating liquor in their communities. I believe that such decisions should be made by the citizens of those communities rather than by the legislature of this state.

Therefore, I veto **H.B. 1706**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1717 because of the following objection:

This bill is excessive regulation and creates needless bureaucracy without showing compensating benefits to the public. Funding is not provided for this in the appropriations bill.

Therefore, I veto **H.B. 1717**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1776 because of the following objections:

This bill would exempt from the definition of a "bet" an offer of merchandise worth more than $25.00 when made by the owner of a "bona fide carnival contest". This definition makes it possible for virtually any contest to so qualify and thus escape prosecution and opens the door for unscrupulous operators to conduct questionable activities in this state.

Though proposed and enacted with the best intentions, this bill could seriously threaten the protections afforded citizens of our State by allowing unscrupulous operators to operate fraudulent and dishonest games.

As a whole, the bill is vague as to its coverage and would seriously hamper the efforts of law enforcement officials to prosecute those persons who run dishonest, weighted or other illegal gambling operations.

Such legislation would have the effect of legalizing a form of gambling that would not be in the State's best interest and would be detrimental to the well-being of our citizens.

Therefore, I veto **H.B. 1776**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 1879 because of the following objection:

The provisions of this bill are incorporated into Senate Bill 830 which has a broader application. Both bills were approved by the Sixty-ninth Legislature, however **S.B. 830** more fully effectuates the desired intent.

Therefore, I veto **H.B. 1879**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2174 because of the following objection:

Current law requires that every basic life support emergency medical services vehicle be staffed with at least two emergency care attendants who have completed specialized training. This bill would allow areas of less than 5,000 inhabitants to require only one of these attendants be so trained, in order to remove a potential hardship to rural areas in which such training is unavailable.

This bill is unnecessary to guard against that potential hardship. Current law provides for a variance in these training requirements in such cases of hardship where local conditions make it impossible to obtain this training. It is imprudent to reduce the training standards for all of the areas affected by this bill when there is an authorized method for avoiding any potential hardship in these areas.

Therefore, I veto **H.B. 2174**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2316 because of the following objection:

This bill would amend the Texas Election Code to delete the requirement that a naturalized citizen provide the court of naturalization or its location when making application for a voter registration form and would simply permit an applicant to state that he or she is a naturalized United States citizen.

Confirmation of this information is a valuable tool to ensure the validity of the application, the citizenship status of the applicant, and to guarantee the integrity of this state's electoral process.

Therefore, I veto **H.B. 2316**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2349 because of the following objection:

School crosswalks are distinguished by white painted markings throughout the state and the rest of the nation in accordance with specific standards contained in state and federal regulations governing traffic control and safety devices. This bill would require cities and municipalities to use yellow paint to distinguish school crosswalks and would thereby violate provisions of state and federal safety standards that are intended to promote safety by requiring uniformity of traffic control markings on all streets, roads, and highways.

Therefore, I veto **H.B. 2349**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2377 because of the following objection:

A utility district in Texas can be created in two ways: 1) by the Texas Water Commission through the hearing process; and 2) by the Legislature during its biennial session through the regular legislative process. Both the Commission and the Legislative processes are designed to insure a standard and equitable procedure which applies to all applicants with no special advantage given to any applicant. These processes are a prerequisite to insure a sound legal and financial policy for all parties concerned, including the State.

H.B. 2377 grants special and unusual powers to the Sunnyvale Municipal Utility District No. 1 and separates this applicant from all others. It authorizes the District to divide into two or more districts prior to the issuing of bond indebtedness and the levying of ad valorem taxes. In this respect, **H.B. 2377** is a special privilege bill not available to other utility districts. It would allow the Sunnyvale Municipal Utility District No. 1 to become a legislature and commission unto itself and would circumvent the statutory authority granted to those entities.

In creating utility districts, a fair and standard public policy must be applied to all applicants. If the Sunnyvale Municipal District No. 1 is good public policy, then it should be made available to all utility districts. If it is bad public policy, it should not be applied to any districts. The absence of this policy in creating other districts in the State supports the historical reasoning that the Commission and the Legislature has forbidden special advantages to a few districts.

Therefore, I veto **H.B. 2377**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2399 because of the following objection:

The Senate companion document to this bill was also approved by the Sixty-ninth Legislature and carries the true intent of the parties.

Therefore, I veto **H.B. 2399**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2419 because of the following objection:

This bill would expand the jurisdiction of the County Court at Law of Williamson County. This bill is unanimously opposed by the Williamson County Commissioners Court, the County Judge, as well as the County Court at Law Judge who would be affected by this bill on the grounds that this measure is unnecessary and would be extremely costly to the taxpayers that would have to pay for the changes brought about by this bill.

Therefore, I veto **H.B. 2419**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2439 because of the following objection:

A utility district in Texas can be created in two ways: 1) by the Texas Water Commission through the hearing process; and 2) by the Legislature during its biennial session through the regular legislative process. Both the Commission and the Legislative processes are designed to insure a standard and equitable procedure which applies to all applicants with no special advantage given to any applicant. These processes are a prerequisite to insure a sound legal and financial policy for all parties concerned, including the State.

H.B. 2439 grants special and unusual powers to the Denton County Fresh Water District No. 1 and separates this applicant from all others. It authorizes the District to divide into two or more districts prior to the issuing of bond indebtedness and the levying of ad valorem taxes. In this respect, **H.B. 2439** is a special privilege bill not available to other utility districts. It would allow the Denton County Fresh Water District No. 1 to become a legislature and commission unto itself and would circumvent the statutory authority granted to those entities.

In creating utility districts, a fair and standard public policy must be applied to all applicants. If the Denton County Fresh Water District No. 1 is good public policy, then it should be made available to all utility districts. If it is bad public policy, then it should not be applied to any districts. The absence of this policy in creating other districts in the State supports the historical reasoning that the Commission and the Legislature has forbidden special advantages to a few districts.

Therefore, I veto **H.B. 2439**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2449 because of the following objection:

The Senate companion to this bill was also approved by the Sixty-ninth Legislature and carries the true intent of the parties involved.

Therefore, I veto **H.B. 2449**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2450 because of the following objection:

The Senate companion to this bill was also approved by the Sixty-ninth Legislature and carries the true intent of the parties involved.

Therefore, I veto **H.B. 2450**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2451 because of the following objection:

The Senate companion to this bill was also approved by the Sixty-ninth Legislature and carries the true intent of the parties involved.

Therefore, I veto **H.B. 2451**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2452 because of the following objection:

The Senate companion to this bill was also approved by the Sixty-ninth Legislature and carries the true intent of the parties involved.

Therefore, I veto **H.B. 2452**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2453 because of the following objection:

The Senate companion to this bill was also approved by the Sixty-ninth Legislature and carries the true intent of the parties involved.

Therefore, I veto **H.B. 2453**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2454 because of the following objection:

The Senate companion to this bill was also approved by the Sixty-ninth Legislature and carries the true intent of the parties involved.

Therefore, I veto **H.B. 2454**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2497 because of the following objection:

The State Department of Highways and Public Transportation Commission has the authority to approve the creation of Road Utility Districts (RUDs) in this state. Therefore, the purpose of this bill can be accomplished without enactment of this legislation.

Therefore, I veto **H.B. 2497**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Concurrent Resolution 137 because of the following objection:

This resolution to sue would set bad precedent if enacted. The allegations giving rise to the resolution are prohibited by Article 4411, V.C.S. There also exists no statutory or common law authority by which a person can maintain an action such as contemplated by the resolution.

Therefore, I veto **H.C.R. 137**.

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Concurrent Resolution 235 because of the following objection:

This resolution involves a dispute between Black Gold Express Company, a division of Saia Motor Freight Lines, Inc., and the Port of Houston Authority. The State of Texas has no connection or involvement with this lawsuit. The allegations indicate that this suit is solely between Black Gold Express Company and the Port of Houston Authority.

This resolution would needlessly expose the State to liability and would require the Attorney General's Office to defend this suit where no facts are alleged that would give rise to a cause of action against the State.

Therefore, I veto **H.C.R. 235**.

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Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Concurrent Resolution 72 because of the following objections.

This resolution to sue, sought by Albert and Florence Gorelick, seeks the State's permission to bring suit against the State Department of Highways and Public Transportation.

This resolution is not in the best interests of the State of Texas. These persons have already pursued two lawsuits involving the same allegations, one in federal court and the other in state court. The Gorelicks had two factual adjudications of their claims and lost in both instances.

This resolution to sue would merely perpetuate this litigation and would unduly waste the limited resources of this State by forcing it to continue to defend claims that have twice before been adjudicated. It would be an unfair and unjust

burden on this State, its courts, as well as other litigants awaiting determination of their claims, to allow this litigation to continue.

Therefore, I veto **H.C.R. 72.**