FORTY-SIXTH DAY
(Wednesday, April 19, 1989)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Heavenly Father, in Your name we pray this morning and ask that You hear our petition for a day that brings satisfaction with ourselves. Give to each of us a sense of genuineness and confidence that we are needed in Your world. Prepare us that we may be helpful in our relationships with others and faithful in all the little things of life.

We ask this in the name of our Lord. Amen.

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

BILLS SIGNED

The President announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills:

S.B. 96
S.B. 444
S.B. 529
S.B. 1122

REPORTS OF STANDING COMMITTEES

Senator Glasgow submitted the following report for the Committee on Jurisprudence:

S.B. 1275
S.B. 1624
S.B. 1639
S.B. 1324
C.S.H.B. 239
C.S.S.B. 906
C.S.S.B. 1090

Senator Sims submitted the following report for the Committee on Administration:

H.C.R. 142
H.C.R. 90

Senator McFarland submitted the following report for the Committee on Criminal Justice:

S.B. 1565
S.B. 135
S.B. 1338
S.B. 1334
S.B. 1335
S.J.R. 55
S.B. 966
S.B. 840
S.B. 56
H.B. 347
C.S.S.B. 1154
C.S.S.B. 1631
C.S.S.B. 1386
C.S.S.B. 93
C.S.S.B. 639
C.S.S.B. 1336
C.S.S.B. 1285
C.S.S.B. 1175

Senator Truan, Acting Chairman, submitted the following report for the Committee on Health and Human Services:

S.B. 1587

Senator Brooks submitted the following report for the Committee on Health and Human Services:

S.C.R. 100

Senator Uribe, Vice-Chairman, submitted the following report for the Committee on Health and Human Services:

S.B. 1595

Senator Brooks submitted the following report for the Committee on Health and Human Services:

H.B. 630
S.B. 1253

Senator Truan, Acting Chairman, submitted the following report for the Committee on Health and Human Services:

S.C.R. 83
S.B. 1502
S.B. 1521
S.B. 1522

Senator Brooks submitted the following report for the Committee on Health and Human Services:

C.S.S.C.R. 88
C.S.S.C.R. 78
C.S.S.B. 923
C.S.S.B. 1426

Senator Parmer submitted the following report for the Committee on Intergovernmental Relations:

S.B. 1193
H.B. 413
S.B. 1476
H.B. 349
S.B. 1352
S.B. 806
C.S.H.B. 1271
C.S.S.B. 681
C.S.S.B. 891
C.S.S.B. 1259
C.S.S.B. 977
C.S.S.B. 88
C.S.S.B. 1152
C.S.S.B. 1066
C.S.S.B. 1156

Senator Parker submitted the following report for the Committee on Education:

S.B. 1385
S.B. 1146
S.B. 1043
S.B. 1095
S.B. 1183

Senator Edwards submitted the following report for the Committee on Nominations:

We, your Committee on Nominations, to which were referred the attached appointments, have had same under consideration, and report them back to the Senate for final consideration.

To be ADJUTANT GENERAL OF TEXAS: Major General James T. Dennis, Tarrant County.

To be ADJUTANT GENERAL OF TEXAS: Brigadier General William C. Wilson, Hunt County.

To be Members of the PUBLIC UTILITY COMMISSION OF TEXAS: William B. Cassin, Harris County; Mrs. Marta Greytok, Harris County.

To be Members of the BOARD OF REGENTS, STEPHEN F. AUSTIN STATE UNIVERSITY: Senator Roy Blake, Sr., Nacogdoches County; Homer Lee Bryce, Rusk County; James M. Windham, Jr., Harris County.

To be a Member of the TEXAS NATIONAL RESEARCH LABORATORY COMMISSION: Warren G. Woodward, Dallas County.

To be a Member of the TEXAS PUBLIC FINANCE AUTHORITY: Harry M. Whittington, Travis County; David Herndon, Travis County.

To be a Member of the TEXAS PUBLIC AUTHORITY: Henry M. Whittington, Travis County.

To be Members of the TEXAS BOARD OF LICENSURE FOR NURSING HOME ADMINISTRATORS: Ms. Barbara JoAnn Waggener Hinson, Upshur County; Mrs. Margaret Gose, Wichita County; Herman D. Sabrsula, Harris County.

To be a Member of the BOARD OF DIRECTORS, ANGELINA AND NECHES RIVER AUTHORITY: Wendel Carl Messec, Rusk County.

To be Members of the BOARD OF DIRECTORS, BRAZOS RIVER AUTHORITY: Robert Ellington Hebert, Fort Bend County; Jesse Lee Hibbetts, Jr., Brazoria County; Art King, Brazos County; Ms. Ruth Schiermeyer, Lubbock County.

To be Members of the BOARD OF DIRECTORS, UPPER NECHES RIVER AUTHORITY: Gordon B. Broyles, Anderson County; Ben L. Swinney, Anderson County.

To be a Member of the BOARD OF DIRECTORS, UPPER COLORADO RIVER AUTHORITY: George Ray Alderman, Runnels County.

To be a Member of the BOARD OF DIRECTORS, NUECES RIVER AUTHORITY: Dan O. Dennis, Nueces County; George A. Finley III, Nueces County; Joseph E. Gardner, Jr., Nueces County.

To be BRANCH PILOTS FOR GALVESTON BAR AND HOUSTON SHIP CHANNEL: Captain Ernest D. Reed, Liberty County; Captain Lance A. Miller, Harris County; Captain Allan R. Barry, Harris County.

MESSAGE FROM THE HOUSE

House Chamber
April 19, 1989

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.B. 549, Relating to an exemption from the nepotism law for substitute teachers in certain school districts.

H.B. 507, Relating to the creation of the offense of interfering with the duties of public servants.

H.B. 758, Relating to medical and hospitalization self-insurance plans and insurance in certain counties.

H.B. 709, Relating to an emergency appropriation to the Texas Agricultural Experiment Station for research on the Africanized bee.

H.B. 30, Relating to consideration of the income of the spouse of a person obligated to pay child support in the establishment or modification of the support.

H.B. 570, Relating to matters of probate.

H.B. 648, Relating to the examination of certain records by the county auditor or the county treasurer.

H.B. 1923, Relating to the representation of the Texas Legislature before the courts of Texas or the United States.

S.B. 227, Relating to the purchase of certain real property by Midwestern State University.

S.B. 534, Relating to the investment of funds by certain districts and authorities.

The House has concurred in Senate amendments to **H.B. 1467** by a record vote of 141 Ayes, 0 Nays, 1 Present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

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

H.C.R. 92, To Committee on Education.
H.C.R. 96, To Committee on Health and Human Services.
H.C.R. 106, To Committee on Education.
H.C.R. 123, To Committee on Economic Development.
H.C.R. 129, To Committee on Health and Human Services.
H.C.R. 143, To Committee on Administration.
H.B. 329, To Committee on State Affairs.
H.B. 333, To Committee on Criminal Justice.
H.B. 596, To Committee on Jurisprudence.
H.B. 879, To Committee on Jurisprudence.
H.B. 1407, To Committee on Finance.
H.B. 1556, To Committee on Criminal Justice.
H.B. 1594, To Committee on Economic Development.
H.B. 1870, To Committee on Intergovernmental Relations.
H.B. 1992, To Committee on Criminal Justice.
H.B. 2079, To Committee on Intergovernmental Relations.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

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

S.C.R. 121 by Barrientos — Jurisprudence
Granting Wayne Lippold, Janet Lippold, Gary Lippold, Gregor Lippold, Bobby Lippold and Peggy Lippold permission to sue the State of Texas and the State Department of Highways and Public Transportation.

S.J.R. 72 by Sims — Finance
Proposing a constitutional amendment to authorize the exemption from ad valorem taxation of certain land used for agricultural education by the public schools.

S.J.R. 73 by Washington — Health and Human Services
Proposing a constitutional amendment relating to removing the limitation on the maximum amount paid out of state funds for assistance grants to needy dependent children and their caretakers.

S.B. 1718 by Krier — Health and Human Services
Relating to the development of a state plan that relates to the current and future needs of the children of the state.

S.B. 1719 by Zaffirini, Edwards — Criminal Justice
Relating to the creation of the offense of taking or possessing certain photographs of nude children.

S.B. 1720 by Zaffirini — Intergovernmental Relations
Relating to the inclusion of school districts with peace officers among those local governments providing law enforcement services through cooperation.

S.B. 1721 by Zaffirini, Brooks, Lyon, Santiesteban, Tejeda — Jurisprudence
Relating to children who engage in delinquent conduct or conduct indicating a need for supervision and the families of those children and to children in need of emergency referral.

S.B. 1722 by Zaffirini, Brooks, Lyon, Santiesteban, Tejeda — Jurisprudence
Relating to services to children, youth, and their families provided by the Texas Youth Commission and juvenile boards.

S.B. 1724 by Green — Criminal Justice
Relating to the exemption of judges and justices from the prohibition against carrying handguns.

S.B. 1725 by Green — Finance
Relating to sales tax permits and the elimination of sales tax permit fees.

S.B. 1726 by Green — Intergovernmental Relations
Relating to an alternative procedure for the deposit and investment of district court registry funds in certain counties.

S.B. 1727 by Montford — Natural Resources
Relating to the creation, administration, powers, duties, operation, and financing of the Dawson County Underground Water Conservation District.

S.B. 1728 by Bivins — State Affairs
Relating to the authority of the Railroad Commission of Texas to direct payment of the cost of holding certain hearings at locations other than Austin.

S.B. 1729 by Sims — Finance
Relating to the exemption from ad valorem taxes of certain land used by a school for educational and recreational purposes involving agriculture.

S.B. 1730 by Sims — Finance
Relating to the financing of the construction, acquisition, purchase, and leasing of buildings and equipment for state agencies.

S.B. 1731 by Sims, — Health and Human Services
Relating to the membership of the state committee for purchases of products and services of blind and severely disabled persons.

S.B. 1732 by Barrientos, Krier — Finance
Relating to exempting certain purchases of machinery and equipment used for research and development from sales and use taxes.

S.B. 1733 by Edwards — Jurisprudence
Relating to the county court and the county courts at law in McLennan County.

CO-AUTHOR OF SENATE BILL 94

On motion of Senator Henderson and by unanimous consent, Senator Edwards will be shown as Co-author of **S.B. 94**.

CO-AUTHOR OF SENATE BILL 125

On motion of Senator Green and by unanimous consent, Senator Zaffirini will be shown as Co-author of **S.B. 125**.

CO-AUTHOR OF SENATE BILL 255

On motion of Senator Montford and by unanimous consent, Senator Lyon will be shown as Co-author of **S.B. 255**.

CO-AUTHOR OF SENATE BILL 1712

On motion of Senator Brooks and by unanimous consent, Senator Parker will be shown as Co-author of **S.B. 1712**.

GUEST PRESENTED

Senator Johnson was recognized and introduced Dr. Ron Anderson, President and Chief Executive Officer of Parkland Memorial Hospital in Dallas.

Dr. Anderson, honored by the Senate with Senate Resolution 422 adopted on April 12, 1989, was welcomed and received the appreciation of the Senate for his extraordinary contributions to health care in Texas.

GUEST PRESENTED

Senator Krier was recognized and presented Dr. James Gaspard of San Antonio.

Dr. Gaspard, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

COMMITTEE SUBSTITUTE SENATE JOINT RESOLUTION 24 ON FINAL PASSAGE

The President laid before the Senate the following resolution: (Final passage having been reconsidered on April 13, 1989)

C.S.S.J.R. 24, Proposing a constitutional amendment providing for the issuance of general obligation bonds for acquiring, constructing, or equipping corrections institutions, youth corrections institutions, and mental health and mental retardation institutions. (Submitted by Governor as an emergency matter)

Question - Shall the resolution be finally passed?

Senator Johnson offered the following amendment to the resolution:

Amend **C.S.S.J.R. 24** by striking Section 2 of the resolution and substituting:

SECTION 2. Article III of the Texas Constitution is amended by adding Section 49-i to read as follows:

Sec. 49-i. (a) The legislature may authorize the issuance of not more than $160 million in general obligation bonds and the use of the bond proceeds for the restoration of and improvements to the State Capitol and the General Land Office Building. The legislature may require the review and approval of the issuance of the bonds and the projects to be financed by the bond proceeds. Notwithstanding any other provision of this constitution, the issuer of the bonds or any entity created or directed to review projects may include members or appointees of members of the executive, legislative, and judicial departments of state government.

(b) The legislature may provide for the investment of bond proceeds, and may establish and provide for the investment of an interest and sinking fund. Income from the investment shall be used for the purposes prescribed by the legislature.

(c) Proceeds from the sale of the bonds, the interest and sinking fund, and income from the interest and sinking fund may be expended without further appropriation.

(d) Bonds issued under this section constitute a general obligation of the state. While any of the bonds or interest on the bonds is outstanding and unpaid, there

is appropriated out of the first money coming into the treasury in each fiscal year the amount sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year, less any amount in the sinking fund at the end of the preceding fiscal year that is pledged to payment of the bonds or interest.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the issuance of general obligation bonds for projects relating to facilities of corrections institutions, youth corrections institutions, and mental health and mental retardation institutions and for restoration of the State Capitol and the General Land Office Building."

McFARLAND
JOHNSON

By unanimous consent, the amendment was read and was adopted viva voce vote.

On motion of Senator McFarland and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was again finally passed by the following vote: Yeas 27, Nays 0.

Absent: Santiesteban, Tejeda, Washington, Whitmire.

COMMITTEE SUBSTITUTE SENATE BILL 558 ON FINAL PASSAGE

The President laid before the Senate the following bill: (Final passage having been reconsidered on April 13, 1989)

C.S.S.B. 558, Relating to the issuance of general obligation bonds for projects relating to corrections institutions, youth corrections institutions, and mental health and mental retardation institutions. (Submitted by Governor as an emergency matter)

Question - Shall the bill be finally passed?

Senator Johnson offered the following amendment to the bill:

Amend **C.S.S.B. 558** by striking Sections 4 and 5 of the bill and substituting:

SECTION 4. Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended by adding Section 4A to read as follows:

Sec. 4A. ADDITIONAL GENERAL OBLIGATION BONDS. In addition to the bonds authorized by Section 4 of this Act, the authority may issue not more than $160 million in general obligation bonds for the restoration of and improvements to the State Capitol and the General Land Office Building.

SECTION 5. (a) This section applies to bond proceeds distributed for use by the Texas Department of Mental Health and Mental Retardation, the Texas Department of Corrections, the Texas Youth Commission, or the State Preservation Board.

(b) Proceeds of bonds authorized by this Act may not be used to finance a project unless the agency using the proceeds has submitted to the Legislative Budget Board specific plans for the project. If required by the General Appropriations Act, project plans must be approved by the Legislative Budget Board before the bond proceeds are expended.

SECTION 6. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1989.

(b) Sections 2, 4, and 5 of this Act take effect on the date on which the constitutional amendment proposed by **S.J.R. 24**, 71st Legislature, Regular Session, 1989, takes effect. If that amendment is not approved by the voters, Sections 2, 4, and 5 of this Act have no effect. 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.

McFARLAND
JOHNSON

By unanimous consent, the amendment was read and was adopted viva voce vote.

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

The bill as amended was again finally passed viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1288 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 engrossment:

C.S.S.B. 1288, Relating to the interruption of utilities and the exclusion of a tenant.

The bill was read second time and was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1288 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1288** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Tejeda, Washington, Whitmire.

The bill was read third time and was passed viva voce vote.

SENATE BILL 1289 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 engrossment:

S.B. 1289, Relating to forcible entry and detainer.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1289 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 1289** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Tejeda, Washington, Whitmire.

The bill was read third time and was passed viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1290 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 engrossment:

C.S.S.B. 1290, Relating to the interruption of utilities connected to leased premises and the removal of property and exclusion of a tenant from leased premises.

The bill was read second time and was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1290 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1290** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Washington, Whitmire.

The bill was read third time and was passed viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1607 ON SECOND READING

On motion of Senator Johnson 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:

C.S.S.B. 1607, Relating to waiver of residential landlord duties; venue for actions under Chapter 92 of the Property Code; maintenance of a rental dwelling in a habitable condition; and utility cutoffs due to a residential landlord's failure to pay utility bills.

The bill was read second time and was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1607 ON THIRD READING

Senator Johnson moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1607** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Washington, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 370 ON THIRD READING

Senator Santiesteban moved that the regular order of business be suspended and that **C.S.S.B. 370** be placed on its third reading and final passage.

C.S.S.B. 370, Relating to the creation, administration, and powers of the Texas Rivers Protection System; providing civil and criminal penalties.

The motion prevailed by the following vote: Yeas 19, Nays 9.

Yeas: Barrientos, Brooks, Caperton, Carriker, Edwards, Glasgow, Green, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Parker, Ratliff, Santiesteban, Tejeda, Truan, Uribe.

Nays: Armbrister, Bivins, Brown, Dickson, Haley, Harris, Montford, Sims, Zaffirini.

Absent: Parmer, Washington, Whitmire.

The bill was read third time and was finally passed viva voce vote.

RECORD OF VOTES

Senators Armbrister, Bivins, Brown, Dickson, Haley, Harris, Montford, Sims and Zaffirini asked to be recorded as voting "Nay" on the final passage of the bill.

FLOOR PRIVILEGES GRANTED

On motion of Senator Montford and by unanimous consent, floor privileges were granted to Robert Duncan, Counsel for State Affairs Committee, during discussion of **C.S.S.B. 255**.

COMMITTEE SUBSTITUTE SENATE BILL 255 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 engrossment:

C.S.S.B. 255, Relating to the regulation of insurance companies; providing penalties.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 255**, SECTION 2.01, by amending Subsection (a) of Section 8, Article 1.15A, Insurance Code (Committee Printing, page 8, lines 3-8), to read as follows:

(a) An insurer may submit to the commissioner a written application for approval to file an audited financial report covering combined or consolidated audited financial statements for the insurer and any subsidiaries or affiliates instead of separate audited financial reports.

The amendment was read and was adopted viva voce vote.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.S.B. 255** of the Committee Printing on Page 13, line 55, as follows:

Delete the phrase "that exceeds 90 days" and substitute in lieu thereof "that exceeds 60 days".

The amendment was read and was adopted viva voce vote.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 3

Amend **C.S.S.B. 255** by adding a new Article _____ to read as follows and renumbering the remaining articles accordingly:

ARTICLE _____. REINSURANCE REGISTRATION AND REPORTING

SECTION _____.01. Article 3.10A, Insurance Code, is amended to read as follows:

Art. 3.10A. Reinsurance Ceded to Nonadmitted Reinsurers

(a) No credit shall be given in the accounting and financial statements, either as an asset or a deduction from liability, of any domestic ceding insurer on account of any reinsurance of insurance policies or reinsurance reserved ceded to an assuming insurer which is not licensed to do business in this state, unless:

(1) pursuant to a written agreement between the ceding insurer and the assuming insurer, assets equal to the reserves required to be established by the ceding insurer on such reinsured business are deposited by or are witheld from the assuming insurer and are in the custody of the ceding insurer as security for the payment of the assuming insurer's obligations under the reinsurance agreement, and such assets are held subject to withdrawal by and under the control of the ceding insurer; or

(2) pursuant to a written agreement between the ceding insurer and the assuming insurer, assets equal to the reserves required to be established by the ceding insurer on such reinsurance business are either placed in a trust account for such purpose with a bank domiciled in this state which is a member of the Federal Reserve System or are represented by an irrevocable letter of credit to the benefit of the ceding insurer from such a bank, and if withdrawals from such trust account or reduction in the amount of the letter of credit cannot be made without the consent of the ceding insurer except for those amounts which are in excess of the reserves required to be established by the ceding insurer; and

(3) in either of the above, no credit shall be given in the accounting and financial statements either as an asset or a deduction from liability of any domestic ceding insurer unless the assuming insurer files at least the following information with the State Board of Insurance within 30 days of the assumption of reinsurance of subjects resident, located, or to be performed in this state:

(A) a description of the current form of organization of the assuming insurer;

(B) its principal place of business;

(C) the names of its officers and directors;

(D) a certified copy of its current license or certificate of authority from its domiciliary state or country authorizing either the assumption of the subject risk, or the reinsurance thereof, to be written in Texas;

(E) certified copies of any current financial statements on file with its domiciliary state or country; and

(F) a list of all states or countries in which it is authorized, with a listing of authorized lines for each such state or country.

(b) As used in this article, the term "assets" refers to any asset or investment authorized by this code to be counted for reserve fund purposes in the financial statements of domestic life, health, and accident insurance companies.

(c) The commissioner of insurance shall have the right to examine any of such reinsurance agreements, deposit arrangements, or letters of credit at any time in accordance with the authority to make examinations of insurance companies as conferred by other provisions of this code.

(d) The State Board of Insurance may promulgate and adopt such rules, forms, and regulations as may be deemed necessary to carry out this Article and to

assure uniform standards for such deposit arrangements, trust agreements, letters of credit, and reinsurance agreements, consummated under the provisions of this article with regard to the information required to be reported pursuant to Section (a)(3) of this Article, the State Board of Insurance shall publish on a quarterly basis an updated list of reinsurers registered pursuant to this Article as well as make such registration forms available for public inspection at reasonable times as established by the board.

(e) The only lawful transaction of reinsurance by nonadmitted assuming insurers for the purpose of Article 1.14-1(2)(b)(2) shall be in conformance with these articles.

SECTION ___.02. Article 5.75-2, Insurance Code, is amended to read as follows:

Art. 5.75-2. Reinsurance Ceded to Nonadmitted Reinsurers

(a) Credit for the reserve liability may not be taken by any domestic ceding insurer on account of any reinsurance of insurance policies or reinsurance reserve ceded to an assuming insurer that is not licensed to do business in this state, unless:

(1) pursuant to a written agreement between the ceding insurer and the assuming insurer, assets equal to the reserves required to be established by the ceding insurer on the reinsured business are deposited by or are withheld from the assuming insurer and are in the custody of the ceding insurer as security for the payment of the assuming insurer's obligations under the reinsurance agreement and the assets are held subject to withdrawal by and under the control of the ceding insurer;

(2) pursuant to a written agreement between the ceding insurer and the assuming insurer, assets equal to the reserves required to be established by the ceding insurer on the reinsurance business are either placed in a trust account for that purpose with a bank that is a member of the Federal Reserve System or are represented by an irrevocable letter of credit to the benefit of the ceding insurer from a bank that is a member of the Federal Reserve System; provided withdrawals from the trust account or reduction in the amount of the letter of credit cannot be made without the consent of the ceding insurer;

(3) the assuming insurer has given a bond with an admitted insurer as surety payable to the ceding insurer in an amount at least equal to the reserves required to be established by the ceding insurer on account of any reinsurance ceded to the assuming insurer, and the bond is conditioned that the assuming insurer will well and truly perform its obligations to the ceding insurer and will continue in full force and effect until any and all obligations of the assuming insurer are met; or

(4) the assuming insurer:

(A) is a group of alien individual unincorporated insurers writing insurance on the so-called Lloyd's plan;

(B) is licensed to do business in a state of the United States;

(C) maintains funds held in trust for the protection of United States policyholders and beneficiaries in a bank or trust company that is organized under the laws of the United States or any state of the United States and that is a member of the Federal Reserve System; and

(D) has trust funds that amount to at least $50,000,000, invested in assets provided by Article 2.08 of this code; and

(5) in each of the above, credit for reserve liability may not be taken unless the assuming insurer files at least the following information with the State Board of Insurance within 30 days of the assumption of reinsurance of subjects resident, located or to be performed in this state:

(A) a description of the current form of organization of the assuming insurer;

(B) its principal place of business;

(C) the names of its officers and directors;

(D) a certified copy of its current license or certificate of authority from its domiciliary state or country authorizing either the assumption of the subject risk, or the reinsurance thereof, to be written in Texas;

(E) certified copies of any current financial statements on file with its domiciliary state or country; and

(F) a list of all states or countries in which it is authorized, with a listing of authorized lines for each such state or country.

(b) The commissioner of insurance may examine any of the reinsurance agreements, deposit arrangements, surety bonds, or letters of credit at any time under his authority to make examinations of insurance companies as provided by this code.

(c) In this article, "assets" means any asset or investment authorized by this code to be counted for reserve fund purposes in the financial statements of domestic insurance companies.

(d) The State Board of Insurance may adopt necessary rules and forms to carry out this article and shall publish on a quarterly basis an updated list of reinsurers registered pursuant to Section (a)(5) as well as make such registration forms available for public inspection at reasonable times as established by the board.

(e) The only lawful transaction of reinsurance by nonadmitted assuming insurers for the purpose of Article 1.14-1(2)(b)(2) shall be in conformance with these articles.

SECTION ___.03. Article 8.07, Insurance Code, is amended to read as follows:

Art. 8.07. Annual Statement

The president, vice president and secretary or a majority of directors or trustees of any such company shall annually, on the first day of January or within sixty (60) days thereafter, prepare and deposit in the office of the Board a verified statement of the condition of such company on the 31st day of December of the preceding year, showing:

1. Name and where located, (a) names of officers, (b) the amount of capital stock, (c) the amount of capital stock paid in.

2. Assets, (a) the value of real estate owned by said company, (b) the amount of cash on hand, (c) the amount of cash deposited in bank or trust company, (d) the amount of bonds of the United States, and all other bonds, giving names and amounts with par and market values of each kind, (e) the amount of loans secured by first mortgage on real estate, (f) the amount of all other bonds, loans and how secured, with rate of interest, (g) the amount of notes given for unpaid stock and how secured, (h) the amount of interest due and unpaid, (i) the value of all electronic machines, constituting a data processing system or systems, and all other office equipment, furniture, machines and labor-saving devices heretofore or hereafter purchased for and used in connection with the business of an insurance company to the extent that the total actual cash market value of all of such systems, equipment, furniture, machines and devices constitute less than five per cent (5%) of the otherwise admitted assets of such company; and provided further, that the total value of all such property of a company must exceed Two Thousand Dollars ($2,000), to qualify hereunder, (j) all other credits or assets. The Commissioner of Insurance may adopt regulations defining electronic machines and systems, office equipment, furniture, machines and labor-saving devices as used in (i) above, and provide for the maximum period for which each such class of equipment may be amortized; the value of all such property as determined hereunder and under the regulations herein provided for shall be deemed to be an admitted asset for all purposes.

3. Liabilities, (a) the amount of losses due and unpaid, (b) the amount of claims for losses unadjusted, (c) the amount of claims for losses resisted.

4. Income during the year, (a) the amount of fees received during the year, (b) the amount of interest received from all sources, (c) the amount of receipts from all other sources.

5. Expenditures during the year, (a) the amount paid for losses, (b) the amount of dividends paid to stockholders, (c) the amount of commissions and salaries paid to agents, (d) the amount paid to officers for salaries, (e) the amount paid for taxes, (f) the amount of all other payments or expenditures.

6. Miscellaneous, (a) the amount paid in fees during the year, (b) the amount paid for losses during the year, (c) the whole amount of insurance issued and in force on the 31st day of December of the previous year.

7. For any insurer who assumes reinsurance, the information required by this article shall be provided by line of insurance as established by the State Board of Insurance for all such assumed reinsurance.

SECTION ___.04. This article takes effect January 1, 1991.

The amendment was read and was adopted viva voce vote.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 4

Amend **C.S.S.B. 255** by adding a new Article _____ to read as follows and renumbering the remaining articles accordingly:

ARTICLE _____. DTPA REFERRAL REMOVAL

SECTION _____.01. Subsections (a), (c), (d), and (e), Section 17.47, Business & Commerce Code, are amended to read as follows:

(a) Whenever the consumer protection division has reason to believe that any person is engaging in, has engaged in, or is about to engage in any act or practice declared to be unlawful by this subchapter, and that proceedings would be in the public interest, the division may bring an action in the name of the state against the person to restrain by temporary restraining order, temporary injunction, or permanent injunction the use of such method, act, or practice. The consumer protection division may bring any action under this section against a licensed insurer or insurance agent for a violation of this subchapter, Article 21.21, [~~Texas~~] Insurance Code, [~~as amended,~~] or the rules and regulations of the State Board of Insurance issued under Article 21.21, [~~Texas~~] Insurance Code. On the date that the consumer protection division files or otherwise brings an action under this section the consumer protection division shall notify the commissioner of insurance in writing of the action[~~, as amended, only on the written request of the State Board of Insurance or the commissioner of insurance~~].

Nothing herein shall require the consumer protection division to notify such person that court action is or may be under consideration. Provided, however, the consumer protection division shall, at least seven days prior to instituting such court action, contact such person to inform him in general of the alleged unlawful conduct. Cessation of unlawful conduct after such prior contact shall not render such court action moot under any circumstances, and such injunctive relief shall lie even if such person has ceased such unlawful conduct after such prior contact. Such prior contact shall not be required if, in the opinion of the consumer protection division, there is good cause to believe that such person would evade service of process if prior contact were made or that such person would destroy relevant records if prior contact were made, or that such an emergency exists that immediate and irreparable injury, loss, or damage would occur as a result of such delay in obtaining a temporary restraining order.

(c) In addition to the request for a temporary restraining order, or permanent injunction in a proceeding brought under Subsection (a) of this section, the consumer protection division may request a civil penalty of not more than $10,000 [~~$2,000~~] per violation, not to exceed a total of $100,000 [~~$10,000~~], to be paid to the state.

(d) The court may make such additional orders or judgments as are necessary to compensate identifiable persons for actual damages or to restore money or property, real or personal, which may have been acquired by means of any unlawful act or practice. [~~Damages may not include any damages incurred beyond a point two years prior to the institution of the action by the consumer protection division.~~] Orders of the court may also include the appointment of a receiver or a sequestration of assets if a person who has been ordered by a court to make restitution under this section has failed to do so within three months after the order to make restitution has become final and nonappealable.

(e) Any person who violates the terms of an injunction under this section shall forfeit and pay to the state a civil penalty of not more than $50,000 [~~$10,000~~] per violation, not to exceed $1 million [~~$50,000~~]. In determining whether or not an injunction has been violated the court shall take into consideration the maintenance of procedures reasonably adapted to insure compliance with the injunction. For the purposes of this section, the district court issuing the injunction shall retain jurisdiction, and the cause shall be continued, and in these cases, the consumer protection division, or the district or county attorney with prior notice to the consumer protection division, acting in the name of the state, may petition for recovery of civil penalties under this section.

SECTION _____.02. The change in the amount of civil penalties in Section 17.47, Business & Commerce Code, under amendments made by this Act applies only to an action brought on or after the effective date of this Act. An action brought before the effective date of this Act is governed by the law in effect when the action was brought, and that law is continued in effect for that purpose.

SECTION _____.03. This article takes effect January 1, 1991.

The amendment was read and was adopted viva voce vote.

RECORD OF VOTE

Senator Harris asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 5

Amend **C.S.S.B. 255** by adding a new Article _____ to read as follows and renumber the remaining articles accordingly:

ARTICLE _____. DATA REPORTING AND RATE ADMINISTRATION

SECTION _____.01. Article 1.24A, Insurance Code, is amended to read as follows:

Art. 1.24A. PROPERTY/CASUALTY DATA [~~LIABILITY INSURERS CLAIMS~~] REPORT

Sec. 1. DEFINITIONS. In this article:

(1) [~~"Liability insurance" means the following types of insurance:~~

[~~(A) general liability;~~

[~~(B) medical professional liability;~~

[~~(C) professional liability other than medical professional liability;~~

[~~(D) commercial automobile liability;~~

[~~(E) the liability portion of commercial multiperil coverage; and~~

[~~(F) any other types or lines of liability insurance designated by the State Board of Insurance under Section 3 of this article.~~

[~~(2)~~] "Insurer" means:

(A) each insurance company or other entity admitted to do business and authorized to write property and casualty [~~liability~~] insurance in this state, including county mutual insurance companies, farm mutual insurance companies, Lloyd's plan companies, and reciprocal or interinsurance exchanges [~~but excluding farm mutual insurance companies and county mutual fire insurance companies writing exclusively industrial fire insurance as defined by Article 17.02 of this code~~]; and

(B) each pool, joint underwriting association, or self-insurance mechanism or trust authorized by law to insure its participants, subscribers, or members against liability.

(2) "Board" means the State Board of Insurance.

Sec. 2. REPORT TO BE FILED. (a) Each insurer transacting property and casualty insurance business in or through a licensed agent of this state shall annually file with the board, on or before March 1 of each year, its statistical information required pursuant to Subdivisions (1) through (22) of this subsection for all property and casualty insurance coverage, listed individually by insurance line and subclassification for the preceding calendar, accident and policy year experience in Texas and countrywide. The information shall represent total limits data and shall include:

(1) number of exposures, including the definition used for exposure, and if not otherwise included therein a policy count;

(2) direct and net premiums written;

(3) direct and net premiums earned;

(4) direct and net losses paid;

(5) number and total amount of claims paid;

(6) number and total amount of claims unpaid;

(7) total amount of claims payable by reinsurance;

(8) direct and net values for the following:

(A) losses incurred during the year which occurred and were paid during the year;

(B) losses incurred during the year which occurred and were reported during the year but were not yet paid;

(C) losses incurred but not reported during the year; and

(D) adjustments made to loss reserves during the year to prior years' losses specified by year of occurrence;

(9) any loss development factor and loss trend factor used and their supporting data;

(10) loss reserves for all known claims for the beginning and end of the year;

(11) reserves for losses incurred but not reported for the beginning and end of the year;

(12) direct incurred allocated loss adjustment expenses;

(13) direct incurred unallocated loss adjustment expenses;

(14) direct and net loss adjustment expenses paid;

(15) direct and net values for each of the following:

(A) loss adjustment expenses incurred during the year for losses which occurred during the year and were paid during the year;

(B) loss adjustment expenses incurred during the year for losses which occurred and were reported during the year but were not yet paid;

(C) loss adjustment expenses for losses incurred but not reported during the year; and

(D) adjustments made to loss adjustment expense reserves during the year to prior years' reserves specified by year of occurrence;

(16) other net expenses incurred, including separate expenses, for the following:

(A) commissions and brokerage;

(B) other acquisitions, field supervision, and collection expenses;

(C) itemized general expenses; and

(D) taxes (except income taxes), licenses, and fees;

(17) underwriting income or loss before the payment of dividends and income taxes;

(18) policyholder dividends;

(19) net surplus allocated pro rata by unearned premium and loss reserves attributable to Texas business for each line and subclassification of insurance written;

(20) net investment gain and loss and other income gain or loss countrywide and allocated pro rata by earned premiums and by reserves and allocated surplus to Texas business; and

(21) total return before income taxes on net allocated surplus;

(22) such other information as may be required by rule of the board, including statewide rate information presented separately for Texas and each state wherein the insurer writes the line, subline, or rating classification for which the data filing is made and which the board deems necessary for its consideration.

(b) Where actual experience does not exist or is not credible, the insurer shall use estimates for the information required by Subdivisions (1) through (22) and shall submit full information necessary to support such estimates.

(c) No insurer shall make, issue, or deliver an insurance contract or policy of a class to which this article applies, except in accordance with the rate, supplementary rate, and deviation filings that are in effect for the insurer.

(d) The board shall develop a uniform statement or format for requesting the information specified in Subsection (a) of this section. Such statement or format shall be utilized by all insurers for all data filings. [~~On or before May 1 of each year, each insurer shall file with the State Board of Insurance a report covering its direct writings of liability insurance in this state.~~

[~~(b) The report shall include the following information for each type of insurance:~~

[~~(1) direct premiums written;~~

[~~(2) direct premiums earned;~~

[~~(3) net investment income using appropriate estimates where necessary;~~

[~~(4) direct incurred losses and allocated loss adjustment expense, developed as a sum of, and with amounts provided for, each of the following:~~

[~~(A) dollar amount of paid losses; plus~~

[~~(B) reserves for reported claims at the end of the current year; minus~~

[~~(C) reserves for reported claims at the end of the previous year; plus~~

[~~(D) reserves for incurred but not reported claims at the end of the current year; minus~~

[~~(E) reserves for incurred but not reported claims at the end of the previous year; plus~~

[~~(F) direct paid allocated loss adjustment expenses; plus~~

[~~(G) reserves for allocated loss adjustment expense at the end of the current year; minus~~

[~~(H) reserves for allocated loss adjustment expense at the end of the previous year;~~

[~~(5) direct incurred expenses, allocated separately for unallocated loss adjustment, commissions, other acquisition costs, general office expenses, taxes, licenses, fees, and all other expenses, using appropriate estimates where necessary;~~

[~~(6) policyholder dividends paid;~~

[~~(7) underwriting gain or loss developed as the remainder of the amounts reported under Subdivision (2) minus the amounts reported under Subdivisions (4), (5), and (6) of this subsection;~~

[~~(8) operating gain or loss, including net investment income, developed as the sum of the amounts reported under Subdivisions (3) and (7) of this subsection;~~

[~~(9) the total realized capital gains and losses;~~

[~~(10) the number and total dollar amount of claims closed with payment by year incurred, the total amount reserved for those claims at the end of the previous calendar year, and the total amount of those claims payable by reinsurance;~~

[~~(11) the number of claims closed without payment by year incurred and the dollar amount reserved for those claims at the end of the previous calendar year; and~~

[~~(12) any other information required by the State Board of Insurance.~~]

Sec. 3. Anticipated underwriting profit shall be computed by multiplying the earned premiums applicable to each line by the percentage factor for profit and contingencies approved by the board for that line, which factor shall be determined with due recognition to investment income.

Sec. 4. Data filed pursuant to this article shall be used for rate-making and other regulatory purposes by the board and shall be provided upon request to all parties to hearings free of charge and shall also be fully available to the public pursuant to the Texas open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17(a), Vernon's Texas Civil Statutes). [~~RULES AND FORMS; OTHER INSURANCE. (a) The State Board of Insurance may adopt necessary rules and forms to carry out this article and to add other types and lines of insurance against liability to the types and lines for which reports must be made under this article.~~

[~~(b) If the National Association of Insurance Commissioners or a substantial number of states as determined by the board adopts a uniform reporting format to obtain information similar to that required by this article, the State Board of Insurance may adopt that system as an alternative to the format required by this article, but the board must supplement the uniform format with information required by this article that is not included in the uniform format.~~

[~~Sec. 4. INFORMATION AVAILABLE TO PUBLIC. The information required to be filed with the State Board of Insurance by this article is public information and shall be made available to the public at reasonable times as established by the board.~~]

SECTION _____.02. Article 1.24B, Insurance Code, is amended to read as follows:

Art. 1.24B. LIABILITY INSURANCE [~~CLOSED~~] CLAIM REPORTS

Sec. 1. DEFINITIONS. In this article:

(1) [~~"Liability insurance" means the following types of insurance:~~

[~~(A) general liability;~~
[~~(B) medical professional liability;~~
[~~(C) professional liability other than medical professional liability;~~
[~~(D) commercial automobile liability;~~
[~~(E) the liability portion of commercial multiperil coverage; and~~
[~~(F) any other types or lines of liability insurance designated by the State Board of Insurance under Section 5 of this article.~~

[~~(2)~~] "Insurer" means:

(A) each insurance company or other entity admitted to do business and authorized to write property and casualty [~~liability~~] insurance in this state, including county mutual insurance companies, farm mutual insurance companies, Lloyd's plan companies, and reciprocal or interinsurance exchanges [~~but excluding farm mutual insurance companies and county mutual fire insurance companies writing exclusively industrial fire insurance as defined by Article 17.02 of this code~~]; and

(B) each pool, joint underwriting association, or self-insurance mechanism or trust authorized by law to insure its participants, subscribers, or members against liability.

(2) "Board" means the State Board of Insurance.

Sec. 2. CLAIM REPORTS. (a) Not later than the 10th day after the last day of the calendar quarter in which a claim for recovery under a liability insurance policy is made, or for which a reserve is established, or is closed, the insurer shall file with the board [~~State Board of Insurance~~] a [~~closed~~] claim report on a form prescribed by the board for that [~~closed~~] claim if the indemnity payment made on the claim under the coverage was $25,000 or more for damages for bodily injury.

(b) The board [~~State Board of Insurance~~] may require the insurer to include in a [~~closed~~] claim report filed under Subsection (a) of this section information relating to payments made for property damage and other damage on the claim under the coverage.

(c) For a claim made, or for which a reserve is established, or is closed under a liability insurance policy [~~that is closed for which the insurer makes indemnity payments under the coverage~~] for an amount less than $25,000 but more than $10,000 for bodily injury, the board [~~State Board of Insurance~~] shall require that [~~the~~] insurer [~~closing the claim~~] to file with the board a summary claim report of the claim. The report shall be filed on a form prescribed by the board not later than the 10th day after the last day of the calendar quarter in which a claim for recovery under a liability insurance policy covered by this subsection is made, or for which a reserve is established, or is closed.

(d) For all claims made, or for which a reserve is established, or is closed under liability policies [~~which claims are closed for which the insurer makes indemnity payments~~] for an amount of $10,000 or less for bodily injury, including claims for which no indemnity payment is made on closing, the board [~~State Board of Insurance~~] shall require that [~~the~~] insurer [~~closing the claim~~] to file with the board one report containing the total pertinent figures for all such claims [~~closed~~] within the calendar year including, in summary form, at least the following minimum information: the total aggregate number of claims and the total aggregate dollar amount paid out. This report shall be filed on a form and in a manner prescribed by the board.

Sec. 3. CONTENT OF [~~CLOSED~~] CLAIM REPORT FORM. The [~~closed~~] claim report form adopted by the board [~~State Board of Insurance~~] for reports under Subsection (a) of Section 2 of this article must include provisions for reporting:

(1) information relating to the identification of the insurer;

(2) information relating to the liability insurance policy including the type or types of insurance, the amounts of various policy limits, whether the policy was occurrence or claims-made, the classification of the insured, and reserves for the claim;

(3) details concerning any injury, damage, and other losses that were the subject of the claim, including the types of injuries, damages, and other losses, where and how injuries, damages, and other losses occurred, age of any injured party, and whether an injury was work-related;

(4) details relating to the claims process including whether suit was filed, where suit was filed, whether attorneys were involved, stage at which claim was closed, court verdict, information relating to appeals, number of defendants, and whether claim was settled outside of court and, if so, at what stage;

(5) detailed information relating to the amount for which the claim was made, the amount for which any reserve was established, and the amount, if any, [~~amounts~~] paid on the claim including information relating to total amount of a court award, the amount paid by the insurer, amounts paid by other insurers, amounts paid by other defendants, collateral sources, structured settlements, amount of noneconomic compensatory damages, amount of prejudgment interest, amounts paid for defense costs, amounts paid for punitive damages, and amounts of allocated loss adjustment expenses; and

(6) any other information that the board [~~State Board of Insurance~~] determines to be significant in allowing the board and the legislature to monitor the liability insurance industry to assure its solvency and to assure that liability insurance is available, affordable, and providing adequate protection in Texas.

Sec. 4. CONTENT OF SUMMARY [~~CLOSED~~] CLAIM REPORT FORM. The summary [~~closed~~] claim report forms adopted by the board [~~State Board of Insurance~~] for reports required under Section 2(c) of this article must include provisions for reporting:

(1) information relating to identification of the insurer;

(2) information relating to the liability insurance policy including the type or types of insurance, the classification of the insured, and reserves for the claim;

(3) details relating to the claims process including whether suits were filed, whether attorneys were involved, the stage at which claims were made, or for which a reserve was established, or closed, court verdict, information relating to appeals, and whether the claims were settled outside of court and at what stage;

(4) information relating to the amounts paid on the claim including the total amount of a court award, the amount paid to the claimant by the insurer, amounts paid for defense costs, punitive damages, and loss adjustment expenses; and

(5) any other information that the board [~~State Board of Insurance~~] determines to be significant in allowing the board and the legislature to monitor the insurance industry to assure its solvency and to insure that liability insurance is available, affordable, and providing adequate protection in Texas.

Sec. 5. RULES AND FORMS. The board [~~State Board of Insurance~~] may promulgate necessary rules to carry out this article, to define terminology, criteria, content, and other matters relating to the reports, and to designate other types or lines of liability insurance required to provide information under this article and may prescribe the form and content of the [~~closed~~] claim reports and summary claims reports to be filed.

Sec. 6. COMPILATION OF DATA; REPORT. (a) The board [~~State Board of Insurance~~] shall compile the data included in individual [~~closed~~] claim reports and summary claims reports into a composite form and shall prepare annually a written report of this composite data.

(b) The report shall be available to the public, and copies of the report shall be submitted to the presiding officers of each house of the legislature.

(c) The board [~~State Board of Insurance~~] on request of the lieutenant governor, speaker of the house, or the chairman of a legislative committee shall provide to the legislature further composite data based on [~~closed~~] claim reports and summary claims reports. The reports prepared under this subsection shall be available to the public.

Sec. 7. INFORMATION CONFIDENTIAL. (a) Information included that identifies individual insureds in [~~in individual closed~~] claim reports and individual summary claims reports submitted by insurers under this article is confidential and may not be made available by the board [~~State Board of Insurance~~] to the public.

(b) Confidential information described in Subsection (a) of this section [~~Information included in the individual closed claim reports and individual summary claims reports~~] may be examined only by the members of the board [~~State Board of Insurance~~], the commissioner of insurance, and the employees of the board [~~State Board of Insurance~~].

SECTION _____.03. Articles 5.04, 5.05, 5.15, 5.16, 5.19, 5.58, and 5.73, Insurance Code, are amended to read as follows:

Art. 5.04. EXPERIENCE AS FACTOR. (a) To insure the adequacy and reasonableness of rates the Board may take into consideration past and prospective experience, within and outside the State, and all other relevant factors, within and outside the State, gathered from a territory sufficiently broad to include the varying conditions of the risks involved and the hazards and liabilities assumed, and over a period sufficiently long to insure that the rates determined therefrom shall be just, reasonable and adequate[~~, and to that end the Board may consult any rate-making organization or association that may now or hereafter exist~~].

(b) As a basis for motor vehicle rates under this subchapter, the State Board of Insurance shall use data from within this State to the extent that the data is credible and available.

Art. 5.05. REPORTS ON EXPERIENCE. (a) Recording and Reporting of Loss Experience and Other Data. The Board shall, after due consideration, promulgate reasonable rules and statistical plans, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss experience and such other data as may be required, in order that the total loss and expense experience of all insurers may be made available at least biennially in such form and detail as may be necessary to aid in determining whether rates comply with the standards set forth in Article 5.04. In promulgating such rules and plans, the Board shall have due regard for the rates approved by it, and in order that such rules and plans may be as uniform as is practicable, to the rules and to the form of the plans used in other states. [~~The Board may designate one or more rating organizations or other agencies to gather and compile such experience.~~]

(b) Interchange of Rating Plan Data. Reasonable rules and plans may be promulgated by the Board after due consideration, requiring the interchange of loss experience necessary for the application of rating plans.

(c) Consultation with other States. In order to further uniform administration of rating laws, the Board [~~and every insurer and rating organization~~] may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult and cooperate with them with respect to rate-making and the application of rating systems.

(d) The Commissioner is hereby authorized and empowered to require sworn statements from any insurer affected by this Act, showing its experience on any classification or classifications of risks and such other information which may be necessary or helpful in determining proper classification and rates or other duties

or authority imposed by law. The Commissioner shall prescribe the necessary forms for such statements and reports, having due regard to the rules, methods and forms in use in other states for similar purposes in order that uniformity of statistics may not be disturbed.

Art. 5.15. FILING OF RATES AND RATING INFORMATION; APPROVAL. (a) Every insurer shall file with the Board every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the policies and endorsement forms proposed to be used, and the information upon which the insurer supports the filing.

(b) [~~An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which make such filings and by authorizing the Board to accept such filings on its behalf.~~

[~~(c)~~] Any filing made pursuant to this article shall be approved by the Board unless it finds that such filing does not meet the requirements of this subchapter. As soon as reasonably possible after the filing has been made the Board shall in writing approve or disapprove the same; provided, that any filing shall be deemed approved unless disapproved within sixty (60) days; provided, that the Board may by official order postpone action for such further time not exceeding sixty (60) days as it deems necessary for proper consideration.

(c)[~~(d)~~] It is expressly provided, however, that notwithstanding any other provision of this subchapter to the contrary, a rate or premium for such insurance greater than the standard rate or premium that has been approved by the Board may be used on any specific risk if:

(1) a written application is made to the Board naming the insurer and stating the coverage and rate proposed;

(2) the person to be insured or person authorized to act in relation to the risk to be insured consents to such rate;

(3) the reasons for requiring such greater rate or premium are stated in or attached to the application;

(4) the person to be insured or person authorized to act for such person signs the application; and

(5) the Board approves the application by order or by stamping.

(d)[~~(e)~~] Any filing for which there is no approved rate shall be deemed approved from the date of filing to the date of such formal approval or disapproval.

(e)[~~(f)~~] If at any time the Board finds that a filing so approved no longer meets the requirements of this subchapter, it may, after a hearing held on not less than twenty (20) days' notice specifying the matters to be considered at such hearing, to every insurer [~~and rating organization~~] which made such filing, issue an order amending the filing to conform to those requirements or withdrawing its approval thereof. Said order shall specify in what respects the Board finds that such filing no longer meets the requirements of this subchapter and shall be effective not less than thirty (30) days after its issuance. Copies of such order shall be sent to every such insurer [~~and rating organization~~].

(f)[~~(g)~~] Any person or organization aggrieved by the action of the Board with respect to any filing may, within thirty (30) days after such action, make written request to the Board for a hearing thereon. The Board shall hear such aggrieved party with thirty (30) days after receipt of such request and shall give not less than ten days' written notice of the time and place of the hearing to the insurer or rating organization which made the filing and to any other aggrieved party. Within thirty (30) days after such hearings the Board shall affirm, reverse or modify its previous action. Pending such hearing and decision thereon the Board may suspend or postpone the effective date of its previous action.

(g)[~~(h)~~] Rates for liability insurance that are approved under this article on a standard and uniform basis shall be effective for a period of two years from the date the rates are approved unless the entity filing the rates requests and the Board approves a period of less than two years or unless the Board on its own motion approves rates for a period of less than two years based on the Board's determination that the statistical data or other information provided to justify the rates is of a nature that indicates that approval for a period of two years is not reasonable. At the end of the two-year period or lesser approved period, rates approved by the Board expire, and for an insurer to continue to write the insurance coverage to which the expired rates applied, a new rate filing and approval under this article are required.

[~~Art. 5.16. RATING ORGANIZATIONS. (a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside the State, may make application for license as a rating organization for such kinds of insurance or subdivisions thereof as are specified in its application and shall file therewith (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws and rules governing the conduct of its business; (2) a list of its members and subscribers; (3) the name and address of a resident of the State upon whom notices or orders of the Board affecting such rating organizations may be served and (4) a statement of its qualification as a rating organization. If the Board finds that the applicant is qualified, it shall issue a license specifying the kinds of insurance or subdivisions thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the Board within sixty (60) days of the date of its filing with it. Licenses issued pursuant to this Article shall remain in effect until suspended or revoked by the Board. The fee for said license shall be Twenty-five ($25.00) Dollars.~~

[~~A rating organization shall not be granted a license as to any class of insurance unless and until two or more insurers have designated it to act for them as to such class of insurance in the manner prescribed herein.~~

[~~(b) Each rating organization shall, subject to reasonable rules and regulations, permit any insurer, not a member, to become a subscriber to its rating services, and shall furnish such services without discrimination to its members and subscribers. The refusal of any rating organization to admit an insurer as a subscriber shall, at the request of such insurer, be reviewed by the Board at a hearing held upon at least ten (10) days' written notice to such rating organization and such insurer. Every rating organization shall notify the Board promptly of every change in the list of its members and subscribers.~~

[~~(c) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends to policyholders.~~

[~~(d) The Board shall, at least once in five (5) years, make or cause to be made an examination of each rating organization licensed in this State. The reasonable costs of such examination shall be paid by the rating organization examined upon presentation to it of a detailed account of such cost. The officers, managers, agents and employees of such rating organization may be examined under oath and shall exhibit all books, records, accounts, documents or agreements governing its method of operation. The Board may waive such examination upon proof that such rating organization has, within a reasonably recent period, been examined by the insurance supervisory official of another state, pursuant to the laws of such state, and upon the filing with the Board of a copy of the report of such examination.~~]

Art. 5.19. RATE ADMINISTRATION. (a) Recording and Reporting of Loss Experience and Other Data. The Board shall, after due consideration, promulgate reasonable rules and statistical plans which may be modified from time to time and which shall be used thereafter by each insurer in the recording and

reporting of its loss experience and such other data as may be required, in order that the total loss and expense experience of all insurers may be made available at least biennially in such form and detail as may be necessary to aid in determining whether rating plans comply with the standards set forth in Article 5.14 of this subchapter. In promulgating such rules and plans, the Board shall have due regard for the rating plans approved by it, and in order that such rules and plans may be as uniform as is practicable, to the rules and to the form of the plans used in other states. [~~The Board may designate one or more rating organizations or other agencies to gather and compile such experience.~~]

(b) Interchange of Rating Plan Data. Reasonable rules and plans may be promulgated by the Board after due consideration, requiring the interchange of loss experience necessary for the application of rating plans.

(c) Consultation with Other States. In order to further uniform administration of rating laws, the Board [~~and every insurer and rating organization~~] may exchange information and experience data with insurance supervisory officials[~~, insurers and rating organizations~~] in other states and may consult and cooperate with them with respect to rate making and the application of rating systems.

(d) Rules and Regulations. The Board may make reasonable rules and regulations necessary to effect the purposes of this subchapter.

Art. 5.58. RATE ADMINISTRATION. (a) Recording and Reporting of Loss Experience and Other Data. The Board shall, after due consideration, promulgate reasonable rules and statistical plans, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss experience and such other data as may be required, in order that the total loss and expense experience of all insurers may be made available at least biennially in such form and detail as may be necessary to aid in determining whether rates comply with the standards set forth in Article 5.60. In promulgating such rules and plans, the Board shall have due regard for the rates approved by it, and in order that such rules and plans may be as uniform as is practicable, to the rules and to the form of the plans used in other states. [~~The Board may designate one or more rating organizations or other agencies to gather and compile such experience.~~]

(b) Interchange of Rating Plan Data. Reasonable rules and plans may be promulgated by the Board after due consideration, requiring the interchange of loss experience necessary for the application of rating plans.

(c) Consultation with Other States. In order to further uniform administration of rating laws, the Board [~~and every insurer and rating organization~~] may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult and cooperate with them with respect to rate-making and the application of rating systems.

(d) Rules and Regulations. The Board may make reasonable rules and regulations necessary to effect the purposes of this subchapter.

[~~Art. 5.73. ADVISORY ORGANIZATIONS. (a) Every group, association or other organization of insurers, whether located within or outside this State, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations but which does not make filings under any of the laws referred to in Article 5.75 of this subchapter, or which assists the Board of Insurance Commissioners in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, shall be known as an advisory organization.~~

[~~(b) Every advisory organization shall file with the Board:~~

[~~(1) a copy of its constitution, its articles of agreement or association, or its certificate of incorporation and of its by-laws, rules and regulations governing its activities;~~

[~~(2) a list of its members;~~

[~~(3) the name and address of a resident of this State upon whom notices or orders of the Board or process issued at its direction may be served; and~~

[~~(4) an agreement that the Board may examine such advisory organization in accordance with the provisions of Article 5.74 of this subchapter.~~

[~~(c) If, after a hearing, the Board finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this subchapter or with the applicable laws referred to in Article 5.75 of this subchapter, it may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this subchapter, or with the applicable laws referred to in Article 5.75 of this subchapter, and requiring the discontinuance of such act or practice.~~

[~~(d) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the Board involving such statistics or recommendations issued under sub-section (c) of this article. If the Board finds such insurer or rating organization to be in violation of this sub-section it may issue an order requiring the discontinuance of such violation.~~]

SECTION _____.04 Section _.03 of this article takes effect January 1, 1991.

The amendment was read.

Senator Glasgow offered the following amendment to Floor Amendment No. 5:

Floor Amendment No. 6

Amend Floor Amendment No. 5 to **C.S.S.B. 255** by substituting January 1, 1991, on page 22, line 2 to read as follows: "January 1, 1992".

The amendment to Floor Amendment No. 5 was read and was adopted viva voce vote.

Question recurring on the adoption of the amendment as amended, Floor Amendment No. 5 as amended was adopted by the following vote: Yeas 20, Nays 11.

Yeas: Barrientos, Brooks, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Johnson, Lyon, McFarland, Parker, Parmer, Santiesteban, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brown, Haley, Harris, Henderson, Krier, Leedom, Montford, Ratliff, Sims.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 7

Amend **C.S.S.B. 255** by adding a new Article _____ to read as follows and renumbering the remaining articles accordingly:

ARTICLE _____. REPEAL OF INSURER'S LIMITED ANTITRUST IMMUNITY

SECTION _____.01. Subdivision (5), Section 15.03, Business & Commerce Code, is amended to read as follows:

(5) The terms "trade" and "commerce" mean the sale, purchase, lease, exchange, or distribution of any goods or services; the offering for sale, purchase, lease, or exchange of any goods or services; the advertising of any goods or services; the business of insurance or reinsurance; and all other economic activity undertaken in whole or in part for the purpose of financial gain involving or relating to any goods or services.

SECTION _____.02. Section 15.04, Business & Commerce Code, is amended to read as follows:

Sec. 15.04. PURPOSE AND CONSTRUCTION. The purpose of this Act is to maintain and promote economic competition in trade and commerce occurring wholly or partly within the State of Texas and to provide the benefits of that competition to consumers in the state. The provisions of this Act shall be construed to accomplish this purpose and shall be construed in harmony with federal judicial interpretations of comparable federal antitrust statutes to the extent consistent with this purpose.

Persons engaged in the business of insurance or reinsurance in Texas, including surplus lines carriers, county mutuals, and reinsurers, shall be subject to the provisions of this Act. Nothing in this section shall be interpreted to limit the provisions of Section 15.25(b).

SECTION _____.03. Section 15.05, Business & Commerce Code, is amended by amending Subsection (g) and adding Subsection (j) to read as follows:

(g) Nothing in this section shall be construed to prohibit activities that are exempt from the operation of the federal antitrust laws, 15 U.S.C. Section 1 et seq. except that no exemption otherwise available pursuant to The McCarran-Ferguson Act (15 U.S.C. Sections 1011-1015) shall serve to exempt activities under this Act. Nothing [~~Furthermore, nothing~~] in this section shall apply to actions required or affirmatively approved by any statute of this state or of the United States or by a regulatory agency of this state or of the United States duly acting under any constitutional or statutory authority vesting the agency with such power.

The Attorney General of the State of Texas is authorized by this Act to investigate the possibility of violations of this Act by any person engaged in the business of insurance.

(j) Nothing in this Act shall prohibit (1) any agreement to collect, compile, and disseminate historical data on paid insurance claims or reserves for reported claims, provided such data is reported to the commissioner of insurance; or (2) participation in any joint arrangement established by statute to assure availability of insurance.

The amendment was read.

Senator Glasgow offered the following amendment to Floor Amendment No. 7:

Floor Amendment No. 8

Amend Floor Amendment No. 7 to **C.S.S.B. 255** by adding the following to read as follows:

"Sec. 04. This Act shall take effect January 1, 1992."

The amendment was read.

On motion of Senator Glasgow and by unanimous consent, Floor Amendment No. 8 was withdrawn.

Senator Montford moved to table Floor Amendment No. 7.

The motion was lost by the following vote: Yeas 14, Nays 17.

Yeas: Armbrister, Bivins, Brooks, Brown, Glasgow, Haley, Harris, Henderson, Krier, Leedom, Montford, Ratliff, Santiesteban, Sims.

Nays: Barrientos, Caperton, Carriker, Dickson, Edwards, Green, Johnson, Lyon, McFarland, Parker, Parmer, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Question recurring on the adoption of Floor Amendment No. 7, the amendment was adopted viva voce vote.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 9

Amend **C.S.S.B. 255**, Article 3 by adding Sec. 8 to Article 1.10 A to read as follows:

Sec. 8. The State Board of Insurance shall revoke the certificate of authority of an insurance carrier if the Board determines that the insurance carrier has not transacted an insurance business in the kinds of insurance authorized by the carrier's certificate of authority for a period of twelve (12) consecutive months or more. An insurance carrier whose certificate of authority is revoked under this section may not apply to the State Board of Insurance for another certificate of authority before the end of twelve (12) consecutive months following the date on which the certificate of authority was revoked.

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 17, Nays 14.

Yeas: Armbrister, Bivins, Brown, Caperton, Dickson, Glasgow, Green, Harris, Henderson, Johnson, Krier, Leedom, McFarland, Montford, Ratliff, Santiesteban, Sims.

Nays: Barrientos, Brooks, Carriker, Edwards, Haley, Lyon, Parker, Parmer, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Senator McFarland offered the following amendment to the bill:

Floor Amendment No. 10

Amend **C.S.S.B. 255** by adding a new Article 7 and renumbering the existing Article 7 as Article 8.

ARTICLE 7
VENUE

SECTION 7.01 Section 15.035, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to an insurance company for which permissive venue is provided under Section 15.032.

SECTION 7.02 Section 15.036, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 15.036. CORPORATIONS AND ASSOCIATIONS. (a) A suit against a private corporation, association, partnership, or joint-stock company may be

brought in the county in which its principal office is situated, in the county in which all or a part of the cause of action arose, or in the county in which the plaintiff resided when all or a part of the cause of action arose, provided the corporation, association, partnership, or joint-stock company has an agency or representative in the county, or, if the corporation, association, partnership, or joint-stock company had no agency or representative in the county in which the plaintiff resided, when all or a part of the cause of action arose, then suit may be brought in the county nearest that in which plaintiff resided at that time in which the corporation, association, partnership, or joint-stock company then had an agency or representative.

(b) A suit against a receiver of a person or a corporation may also be brought as otherwise provided by law.

(c) For the purposes of this section, the mere ownership, leasing of tracks, roadbeds, or right-of-way or maintenance or repair of tracks is not considered to constitute an agency or representative of a railroad corporation, and employees, excluding management, solely engaged in general maintenance, switching, loading or unloading, or operating trains in transit shall not be considered agents or representatives of a railroad corporation.

(d) This section does not apply to an insurance company for which permissive venue is provided under Section 15.032.

SECTION 7.03 Section 15.037, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 15.037. FOREIGN CORPORATIONS. (a) Foreign corporations, private or public, joint-stock companies or associations, not incorporated by the laws of this state, and doing business in this state, may be sued in any county in which all or a part of the cause of action accrued, or in any county in which the company may have an agency or representative, or in the county in which the principal office of the company may be situated, or, if the defendant corporation has no agent or representative in this state, then in the county in which the plaintiffs or either of them reside.

(b) For the purposes of this section, the mere ownership, leasing of tracks, roadbeds, or right-of-way or maintenance or repair of tracks is not considered to constitute an agency or representative of a railroad corporation, and employees, excluding management, solely engaged in general maintenance, switching, loading or unloading, or operating trains in transit shall not be considered agents or representatives of a railroad corporation.

(c) This section does not apply to an insurance company for which permissive venue is provided under Section 15.032.

SECTION 7.04. Article 7 of this Act takes effect September 1, 1989, and applies only to a cause of action that accrues on or after that date. An action that accrued before the effective date of this Act is governed by the law in effect at the time the action accrued, and that law is continued in effect for that purpose.

The amendment was read and was adopted viva voce vote.

On motion of Senator Montford 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 engrossment viva voce vote.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting "Present-not voting" on the passage of the bill to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 255 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 255** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Nays: Washington.

Present-not voting: Glasgow.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Glasgow asked to be recorded as voting "Present-not voting" on the final passage of the bill.

MESSAGE FROM THE HOUSE

House Chamber
April 19, 1989

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. 205, Congratulating Chevron USA for its support for public display of the original Goddess of Liberty.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Edwards gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

SENATE CONCURRENT RESOLUTION 118

Senator Washington offered the following resolution:

WHEREAS, Cebron and Ruth Higgins are outstanding Texans who are respected and admired by all who know them; and

WHEREAS, This devoted couple was joined in marriage on December 23, 1951, at Union Lee Baptist Church in Manor and settled in Webberville, Texas, in the home where they still live today; and

WHEREAS, Mr. and Mrs. Higgins served as foster parents for Travis and Williamson counties from 1961 to 1986, during which time they provided a happy and secure homelife for 11 children; and

WHEREAS, One of these children, diagnosed with cerebral palsy at birth, came to the home of this loving couple at four months of age and was predicted to have only a few months to live; under their tender care, he lived until age 14 and together they enjoyed a very special relationship; and

WHEREAS, Mr. and Mrs. Higgins were honored in the past for their 25 years of service as foster parents when they were the recipients of special awards from the Travis County and Williamson County children protection boards; and

WHEREAS, Among the many interests they have shared through the years is their strong religious faith; they are active members of the Union Lee Baptist Church, where he serves as a deacon and she is a teacher and mentor for the youth program; and

WHEREAS, Now enjoying a well-deserved retirement, Mr. Higgins was a valued employee of the Texas House of Representatives for 20 years and returns to work for the Texas Legislative Council during legislative sessions; and

WHEREAS, It is indeed fitting that Mr. and Mrs. Higgins be honored for the profound impact they have made on the lives of so many children in need; now, therefore, be it

RESOLVED, That the 71st Legislature of the State of Texas hereby honor Cebron and Ruth Higgins on their outstanding service as foster parents; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Mr. and Mrs. Higgins as an expression of high regard from the Texas Senate and House of Representatives.

The resolution was read.

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

On motion of Senator Washington and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

GUESTS PRESENTED

Senator Washington, upon invitation of the President, escorted Mr. and Mrs. Higgins to the President's Rostrum.

The Senate extended a warm welcome to this remarkable couple.

GUESTS PRESENTED

Senator Caperton was recognized and introduced Dr. Herb Richardson, Deputy Chancellor of Texas Engineering Experiment Station and Dr. Kenneth Hall, Deputy Director of Texas Engineering Experiment Station.

The Senate welcomed these distinguished guests and expressed congratulations to them for their facilities' accomplishments relating to experiments in the field of a new source of non-polluting energy.

COMMITTEE SUBSTITUTE SENATE BILL 261 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 engrossment:

C.S.S.B. 261. Relating to the regulation of managing general agents.

The bill was read second time and was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE
SENATE BILL 261 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 261** 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 viva voce vote.

COMMITTEE SUBSTITUTE
SENATE BILL 832 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 engrossment:

C.S.S.B. 832, Relating to regulation of certain third party administrators; providing penalties.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Amend **C.S.S.B. 832**, SECTION 1, by amending Subsection (b), Section 10, Article 21.07-6 (Committee Printing page 5, lines 40-42), to read as follows:

(b) An offense under this section is a Class A misdemeanor punishable by a fine of not less than $500 and not to exceed $5,000.

The amendment was read and was adopted viva voce vote.

On motion of Senator Montford 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 engrossment viva voce vote.

COMMITTEE SUBSTITUTE
SENATE BILL 832 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 832** 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 viva voce vote.

COMMITTEE SUBSTITUTE
SENATE BILL 415 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 engrossment:

C.S.S.B. 415, Relating to the powers and duties of the Office of Public Insurance Counsel.

The bill was read second time.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 415** by deleting from SECTION 1, subsection (i) of Art. 1.35A, in its entirety, and inserting in lieu thereof the following:

(i) Any order of the board which determines, approves, or sets a rate under [~~Chapter 5 of~~] this code and is appealed shall be and remain in effect during the pendency of an appeal. During the pendency of the appeal, an insurer shall use the rate provided in the order being appealed. Such rate shall be lawful and valid during such appeal, and an insurer shall not be required to make any refund therefrom after a decision on the appeal. If a decision on appeal shall vacate the order, the rate established by the board prior to the rendition of the vacated order shall be in effect from and after the date of remand and until the board shall make a further determination; however, the board shall consider the order of the court in setting future rates.

The amendment was read and was adopted viva voce vote.

Senator Caperton offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.S.B. 415**, SECTION 2, Subsection (a), Article 1.35B, Insurance Code, to read as follows:

(a) For the purpose of defraying the costs of creating, administering, and operating the Office of Public Insurance Counsel, the following assessments shall be collected by the board annually in connection with the collection of other taxes imposed on insurers as follows: (1) each [~~Each~~] property and casualty insurer authorized to do business in this state shall pay an annual assessment of 5.7 cents for each policy of property and casualty insurance in force at year end in this state;

(2) each insurer authorized to do business in this state under the provisions of Chapters 3, 10, 11, 14, 20, 20A, 22, 23, and 25, Insurance Code, shall pay an annual assessment of 5.7 cents for each policy of life, health, or accident insurance written for delivery in this state during each calendar year; and

(3) each title insurance company authorized to do business in this state shall pay an annual assessment of 5.7 cents for each owner policy of title insurance and for each mortgage policy of title insurance written for delivery in this state during each calendar year, for which the full basic premium rate is charged [~~for the purpose of defraying the costs of creating, administering, and operating the division of consumer protection. The assessment shall be collected by the board in connection with the collection of other taxes imposed on insurers subject to this article~~].

The amendment was read and was adopted viva voce vote.

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 engrossment viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 415 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 415** 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 viva voce vote.

SENATE BILL 253 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 engrossment:

S.B. 253, Relating to eligibility for participation in the Texas State College and University Employees Uniform Insurance Benefits Act.

The bill was read second time.

Senator Barrientos offered the following committee amendment to the bill:

Amend **S.B. 253** on page 2 line one by adding the following after the word "institution":

in graduate level courses and who is employed at least 20 hours a week or more

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Barrientos 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 engrossment viva voce vote.

RECORD OF VOTE

Senator Leedom asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 253 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 253** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Johnson, Krier, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Leedom, Ratliff, Washington.

Absent: Harris, Henderson.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Johnson, Krier, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Leedom, Ratliff.

Absent: Harris, Henderson.

HOUSE BILL 1302 REREFERRED

On motion of Senator Caperton and by unanimous consent, **H.B. 1302** was withdrawn from the Committee on State Affairs and rereferred to the Committee on Finance.

SENATE BILL 1478 REREFERRED

On motion of Senator Caperton and by unanimous consent, **S.B. 1478** was withdrawn from the Committee on Finance and rereferred to the Committee on State Affairs.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Montford and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on State Affairs might consider **S.B. 1594** today at 2:30 p.m.

NOTICE OF SESSION TO HOLD LOCAL AND UNCONTESTED BILLS CALENDAR

Senator Sims announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks and gave notice that a Local and Uncontested Bills Calendar would be held at 8:00 a.m. tomorrow and that all bills would be considered on second reading in the order in which they are listed.

CONGRATULATORY RESOLUTIONS

S.C.R. 122 - By McFarland: Extending congratulations to Miss Gretchen Polhemus of Fort Worth on winning the Miss USA Pageant title.

S.C.R. 123 - By Parker: Commending Dorothy Spencer Garry for her compassion and dedication that she has exemplified in her work with the physically handicapped.

S.R. 471 - By Glasgow: Recognizing Rusty Sheppard of Denton for the invaluable service he has provided.

S.R. 472 - By Green: Extending congratulations to the honor students, athletes, coaches, and cheerleaders of B. C. Elmore Middle School for their achievements.

S.R. 473 - By Green: Extending congratulations to the B. C. Elmore Middle School football team and girls' basketball team on their excellent season.

S.R. 474 - By Barrientos: Recognizing the achievements of the Texas Alpine Society.

RECESS

On motion of Senator Brooks, the Senate at 1:17 p.m. took recess until 8:00 a.m. tomorrow.