SIXTY-FOURTH DAY
(Monday, May 13, 1991)

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, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Gary Mauldin, St. Philips United Methodist Church, Austin, offered the invocation as follows:

Why is it, O Lord, that we hear You better in the quiet than when we are speaking? Is it that when we are full of ourselves there is no room for You? Teach us to be quiet more often, and to listen. Speak to us in the sky and the earth and the rivers and the creeks and the trees and the stones You have made. Speak to us in the city streets and the buildings and the factories and the machines and the wonders our hands have fashioned with the gifts You have given us. Speak to us in our relationships—in our families and friendships and clubs and jobs and churches and classes. Speak to us in our bodies—these wonderful, intricate, perplexing, and eloquent encasements of feeling and perception. And speak to us in our faith journeys, which wind not only through our lives but through the lives of others, twisting and turning, up hill and down, over plains and mountains, beside still waters and through turbulent floods.

Help us to hear Your calling out to us in the evening news, in the voices of our children, in the plight of our cities, in the opportunities for our planet, in the desperation of emerging nations. Let the cry that reached the ears of the Apostle, "Come over and help us," reach us as well, and let us answer with our talents and our imaginations and our money and our presence. Speak, Lord, and let Your servants hear. Whisper Your will into our hearts. Cure our indifference, heal our brokenness, overcome our separateness. Bind us to the future You are building and let us embrace Your design for our lives. For Yours is the kingdom that will never end and the love that will never be exhausted, though time be forever. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of Friday, May 10, 1991, was dispensed with and the Journal was approved.

CO-AUTHORS OF SENATE BILL 1597

On motion of Senator Glasgow and by unanimous consent, Senators Armbrister, Brooks, Ellis, Harris of Tarrant, Johnson, Krier, Lucio, Moncrief, Montford, Rosson, Sims, Tejeda, Turner and Whitmire will be shown as Co-authors of **S.B. 1597**.

MESSAGE FROM THE HOUSE

House Chamber
May 13, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 2144, Relating to summer bilingual education programs.

H.B. 2175, Relating to laboratory instruction in public school science classes.

H.B. 289, Relating to the expulsion of public school students for carrying knives.

H.B. 1400, Relating to off-duty employment activities of officers of the Department of Public Safety.

H.B. 779, Relating to certain alcoholic beverage permit fees.

H.B. 872, Relating to selection of psychologists under health insurance policies.

H.B. 2758, Relating to judgments.

H.B. 1577, Relating to proof of identification shown by, and records relating to accidents and violations of law involving holders of, a railroad engineer's permit.

H.B. 2420, Relating to the regulation of massage therapists, the practice of massage therapy, and certain sexually oriented businesses; providing penalties.

H.B. 2662, Relating to the establishment of sub depository banks handling county funds.

H.B. 2592, Relating to requiring certain persons released on parole or mandatory supervision to submit to electronic monitoring as a condition of release.

H.B. 2052, Relating to the circumstances under which a court ordered trust may be created.

H.B. 1027, Relating to the sale of goods in certain counties on public highways or rights-of-way; providing a penalty.

H.B. 2112, Relating to labelling of alcoholic beverage products and exemptions from re-application for label approval.

H.B. 2229, Relating to the Dallam-Hartley Counties Hospital District.

H.B. 1627, Relating to a performance bond required of county contractors.

H.B. 1783, Relating to public disturbance reports of local law enforcement agencies to the Alcoholic Beverage Commission.

H.B. 2841, Relating to aid to local law enforcement agencies, prosecutors, and court personnel for the implementation of telecommunications networks capable of sharing information necessary for criminal investigations and prosecutions.

H.B. 2338, Relating to the payment of wages.

H.B. 2242, Relating to public school foreign language programs.

H.B. 2065, Relating to the keeping of vicious dogs; providing penalties.

H.B. 2834, Relating to the establishment and operation of medical clinics by certain counties.

H.B. 2680, Relating to the disposal of solid or hazardous waste by a state agency or political subdivision.

H.B. 2194, Relating to the sale of protected game fish species; providing penalties.

H.B. 1630, Relating to the creation of a tax-exempt money market mutual fund for state employees, state-wide elected officials and duly elected members of the Texas Legislature and providing for electronic funds transfer.

H.B. 2454, Relating to the regulation of motor carriers transporting property incidental to the performance of oil field services.

H.B. 565, Relating to the reporting and investigation of suspected cases of abuse or neglect in nursing homes and facilities operated by the Texas Department of Mental Health and Mental Retardation.

H.B. 1777, Relating to counselors and counseling programs in public schools.

H.B. 2581, Relating to the provision of emergency medical services.

H.B. 2845, Relating to the jurisdiction of the county courts at law in Taylor County.

H.B. 2864, Relating to the compensation of the criminal district attorney of Jefferson County.

H.B. 1004, Relating to the Texas tuition assistance grant program.

H.B. 2835, Relating to the powers and duties of the DeWitt Medical District.

H.B. 1361, Relating to temporary orders in a habeas corpus proceeding concerning the possession of a child.

H.B. 2837, Relating to changing the name of the Galveston County Water Authority.

H.B. 2071, Relating to proceedings against, and issuance of a certificate of authority to, certain insurers.

H.B. 2300, Relating to the seizure of an animal that is being cruelly treated.

H.B. 2072, Relating to the authority of State Board of Insurance employees to use search warrants.

H.B. 1147, Relating to the frequency of payment of certain county officers.

H.B. 1828, Relating to election of supervisors of the Jim Wells County Fresh Water Supply District No. 1 and validation of previous elections and actions of the district.

H.B. 1693, Relating to allowing a county commissioners court to set a payment schedule for interpreters in criminal cases.

H.B. 1761, Relating to excluding land from the Fayette County Water Control and Improvement District-Monument Hill.

H.B. 2066, Relating to certain fees assessed to fund the operations of the boiler inspection section of the Texas Department of Licensing and Regulation.

H.B. 1894, Relating to mandatory liability insurance for certain antique vehicles.

H.B. 2195, Relating to the seizure and disposition of illegal fishing devices.

H.B. 1387, Relating to projects undertaken by certain industrial development corporations.

H.B. 2832, Relating to the creation of municipal courts of record in Grand Prairie.

H.B. 284, Relating to the reinstatement of a driver's license suspended on conviction of certain offenses.

H.B. 2803, Relating to the Montgomery County Hospital District.

H.B. 6, Relating to deceptive trade practices.

H.B. 848, Relating to regulation of tow truck owners.

Respectfully submitted,

BETTY MURRAY, Chief Clerk
House of Representatives

PERMISSION TO INTRODUCE BILLS AND RESOLUTIONS

Senator Brooks moved to suspend Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) to permit the introduction of the following bills and resolutions:

S.R. 719	**S.B. 1599**
S.C.R. 138	**S.B. 1600**
S.B. 1597	**S.B. 1601**
S.B. 1598	

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

BILLS AND RESOLUTIONS SIGNED

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

S.C.R. 108	**S.B. 490**
S.C.R. 111	**S.B. 506**
S.C.R. 113	**S.B. 523**
S.C.R. 120	**S.B. 645**
S.B. 11	**S.B. 648**
S.B. 106	**S.B. 689**
S.B. 144	**S.B. 732**
S.B. 177	**S.B. 756**
S.B. 190	**S.B. 861**
S.B. 215	**S.B. 932**
S.B. 241	**S.B. 994**
S.B. 333	**S.B. 1109**
S.B. 401	**S.B. 1197**
S.B. 420	**S.B. 1232**
S.B. 443	**S.B. 1465**

REPORT OF STANDING COMMITTEE

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

C.S.S.B. 754

SENATE BILLS AND RESOLUTION ON FIRST READING

Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) having been suspended, the following bills and resolution were introduced, read first time and referred to the Committee indicated:

S.R. 719 by Harris of Dallas Economic Development
Directing the Senate Economic Development Committee to conduct an interim study on employee leasing.

S.B. 1597 by Glasgow, Armbrister, Brooks, Ellis, Harris of Tarrant, Johnson, Krier, Lucio, Moncrief, Montford, Rosson, Sims, Tejeda, Turner, Whitmire State Affairs
Relating to workers' compensation insurance rate regulation, the powers and duties of the Texas workers' compensation insurance facility, the abolition of the Texas workers' compensation insurance facility, and the creation of the Texas Workers' Compensation Insurance Fund; creating offenses and providing penalties; authorizing bonds, providing for a maintenance tax surcharge; and making an appropriation.

S.B. 1598 by Brown Criminal Justice
Relating to the punishment for a person whose sentence is commuted to life by the court of criminal appeals.

HOUSE BILLS AND RESOLUTION ON FIRST READING

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

H.C.R. 138, To Committee on Administration.
H.B. 8, To Committee on State Affairs.
H.B. 134, To Committee on Jurisprudence.
H.B. 272, To Committee on Education.
H.B. 285, To Committee on Criminal Justice.
H.B. 700, To Committee on Jurisprudence.
H.B. 702, To Committee on Health and Human Services.
H.B. 1047, To Committee on Criminal Justice.
H.B. 1258, To Committee on Economic Development.
H.B. 1298, To Committee on Finance.
H.B. 1342, To Committee on State Affairs.
H.B. 1503, To Committee on Health and Human Services.
H.B. 1739, To Committee on State Affairs.
H.B. 1757, To Committee on Natural Resources.
H.B. 1955, To Committee on Economic Development.
H.B. 1979, To Committee on Natural Resources.
H.B. 2069, To Committee on Health and Human Services.
H.B. 2154, To Committee on State Affairs.
H.B. 2250, To Committee on Economic Development.
H.B. 2259, To Committee on State Affairs.
H.B. 2266, To Committee on Finance.
H.B. 2288, To Committee on State Affairs.
H.B. 2324, To Committee on Criminal Justice.
H.B. 2368, To Committee on Intergovernmental Relations.
H.B. 2426, To Committee on Criminal Justice.
H.B. 2625, To Committee on State Affairs.
H.B. 2667, To Committee on Economic Development.
H.B. 2795, To Committee on Finance.

(President Pro Tempore Glasgow in Chair)

SENATE BILL 64 WITH HOUSE AMENDMENTS

Senator Green called **S.B. 64** from the President's table for consideration of the House amendments to the bill.

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

Amendment - Ovard

Amend **S.B. 64** by substituting the following:

A BILL TO BE ENTITLED
AN ACT

relating to the offense of failure to identify oneself or falsely identifying oneself to a peace officer.

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

SECTION 1. Section 38.02 (b), and (c), Penal Code, are amended to read as follows:

(a) A person commits an offense if he intentionally refuses to report or give his name, residence address, or date of birth to a peace officer who has lawfully arrested the person and requested the information.

(b) A person commits an offense if he reports or gives a false or fictitious name, residence address, or date of birth to a peace officer who has:

(1) lawfully arrested the person;

(2) lawfully detained the person; [~~lawfully arrested the person~~] or

(3) [~~who has~~] requested the information from a person that the peace officer has good cause to believe is a witness to a criminal offense.

(c) In this section:

(1) "Fugitive[~~, "fugitive~~] from justice" means a person for whom a valid arrest warrant has been issued by a magistrate of this state, if the warrant has not been executed.

(2) "Lawfully detained" means the person was stopped by a peace officer because the peace officer had a reasonable suspicion that the person was involved in criminal activity.

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

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

SECTION 3. This Act takes effect September 1, 1991.

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

Amendment - De La Garza

Amend **C.S.S.B. 64** on page 1, line 15, between "person" and ";", by inserting: "and advised the person that the person does not have a duty to respond to the officer".

The amendments were read.

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

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on **S.B. 64** before appointment.

There were no motions offered.

The President Pro Tempore announced the appointment of the following conferees on the part of the Senate on the bill: Senators Green, Chair; Harris of Tarrant, Lyon, Tejeda, Whitmire.

CONFERENCE COMMITTEE ON HOUSE BILL 640

Senator Lucio called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 640** and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on **H.B. 640** before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lucio, Chair; Glasgow, Krier, Moncrief, Montford.

SENATE BILL 346 WITH HOUSE AMENDMENT

Senator Zaffirini called **S.B. 346** from the President's table for consideration of the House amendment to the bill.

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

Committee Amendment - Glaze

Amend **S.B. 346** as follows:

(1) On page 1, line 15, strike "direct entry".

(2) On page 18, line 6, strike "department" and substitute "midwifery board [~~department~~]".

(3) On page 21, line 4, strike "informed choice statement [~~written disclosure~~]" and substitute "[~~written~~] disclosure of legal requirements".

(4) On page 22, strike lines 7-19 and substitute:

(5) use in connection with the midwife's [~~his~~] name a title, abbreviation or any designation tending to imply that the midwife [~~he~~] is a "registered" or "certified" [~~hay~~] midwife as opposed to one who is [~~has~~] identified [~~himself~~] in compliance with this Act; [~~or~~].

(5) On page 22, line 22, strike "or".

(6) On page 23, line 1, strike the period and substitute "; or".

(7) On page 23, between lines 1 and 2, insert:

(8) except as authorized by rules adopted by the Board of Nurse Examiners and the Board of Vocational Nurse Examiners, use in combination with the term "midwife," the term "nurse" or other title, intitials, or other designation that implies that the midwife is licensed as a registered nurse or licensed vocational nurse.

(8) On page 24, line 18, strike "or threat of violation".

The amendment was read.

On motion of Senator Zaffirini and by unanimous consent, the Senate concurred in the House amendment to **S.B. 346** by a viva voce vote.

SENATE BILL 116 WITH HOUSE AMENDMENTS

Senator Sims called **S.B. 116** from the President's table for consideration of the House amendments to the bill.

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

Amendment - Mowery

Amend **S.B. 116** by substituting the following:

A BILL TO BE ENTITLED
AN ACT

relating to criminal penalties imposed for certain violations of the Texas Unemployment Compensation Act.

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

SECTION 1. Subsections (a), (b), and (c), Section 16, Texas Unemployment Compensation Act (Article 5221b-14, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Whoever makes a false statement or representation, knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this Act or under the unemployment compensation law of any other state, or under any Act or Program of the United States administered by the Commission, either for himself or for any other person, commits an offense. Each [~~shall be punished by fine of not less than One Hundred Dollars ($100), nor more than Five Hundred Dollars ($500), or by imprisonment for not less than thirty (30) days nor longer than one (1) year, or by both such fine and imprisonment; and each~~] such false statement or representation or failure to disclose a material fact shall constitute a separate offense. An offense under this subsection is a Class A misdemeanor.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this Act, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, commits an offense. Each [~~shall be punished by a fine of not less than Twenty Dollars ($20.00), nor more than Two Hundred Dollars ($200.00), or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment; and each~~] such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal, shall constitute a separate offense. An offense under this subsection is a Class A misdemeanor.

(c) Any person who shall willfully violate any provision of this Act or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Act, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, commits an offense. Each [~~shall be punished by a fine of not less than Twenty Dollars ($20.00), nor more than Two Hundred Dollars ($200.00), or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment, and each~~] day such violation continues shall be deemed to be a separate offense. An offense under this subsection is a Class B misdemeanor.

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

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

SECTION 3. This Act takes effect September 1, 1991.

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

Amendment - Thomas

Amend **C.S.S.B. 116** as follows:

(1) On page 1, line 14 delete "Each".
(2) On page 1, delete line 18.
(3) On page 1, line 19 delete "material fact shall constitute a separate offense."
(4) On page 1, line 20 change "B" to "A".
(5) On page 2, line 7 delete "Each"
(6) On page 2, line 10 delete from "such" through first "offense." on line 13.
(7) On page 2, line 20 delete "Each"
(8) On page 2, lines 23 and 24 delete "day such violation continues shall be deemed to be a separate offense."
(9) On page 2, line 25 change "B" to "A".

The amendments were read.

Senator Sims moved to concur in the House amendments to **S.B. 116.**

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

SENATE BILL 603 WITH HOUSE AMENDMENT

Senator Leedom called **S.B. 603** from the President's table for consideration of the House amendment to the bill.

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

Amendment - Marchant

Amend **S.B. 603** by substituting the following:

A BILL TO BE ENTITLED
AN ACT

relating to the Texas Incentive and Productivity Commission.

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

SECTION 1. Section 2.001, Texas Incentive and Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes), is amended by amending Subdivision (7) and adding Subdivision (8) to read as follows:

(7) "State agency" means a department, commission, board, office, or other agency in the executive <u>or judicial</u> branch of government that is created under the constitution or a statute of this state.

<u>(8) "State employee" means a state agency employee.</u>

SECTION 2. Sections 2.002(b), (c), (e), and (f), Texas Incentive and Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) From funds appropriated or otherwise available for this purpose, the commission may grant awards to eligible state employees who make suggestions that reduce state expenditures, increase state revenues, increase state agency productivity, or improve the quality of state services. An award is proportionately related to the financial savings or benefit of the suggestion, based on the net annual savings or increased revenues after implementation costs. Only an approved and implemented employee suggestion is eligible for an award. The commission may grant an award, and the comptroller may transfer funds under this article, before the completion of the first year in which the suggestion is implemented, based on actual or projected savings or increased revenues, including savings or increased revenues that result from increased productivity, that are certified by the affected state agency and the commission.

(c) A bonus is granted for savings or increased revenues, including savings or increased revenues that result from increased productivity, that can be computed using a cost-benefit analysis. Intangible savings or benefits that cannot be computed using such an analysis are not eligible for a bonus but may be recognized by a certificate of appreciation.

(e) An employee whose suggestion results in a net annual savings[;] or increase in revenues, including savings or increased revenues that result from increased productivity, of $100 or more is eligible for a bonus of 10 percent of the net savings[;] or revenue increase, up to a maximum award of $5,000. An employee whose suggestion results in a net annual savings[;] or increase in revenues[;] of less than $100 is not eligible for a bonus but is eligible for a certificate of appreciation.

(f) Based on a certification by the commission and the affected agency of the amount of actual or projected savings or increased revenues that are attributable to an implemented suggestion, the comptroller shall transfer that amount from the fund or funds affected by the savings or increased revenues. The comptroller shall transfer 40 percent of that amount back to the fund from which the original appropriation to the affected fund or funds was made, 40 percent of that amount to an appropriate fund from which the affected agency may award merit pay increases to persons in the agency, and 20 percent of that amount to a special fund established for the commission in the state treasury from which the commission shall award bonuses awarded under this article and administer the commission. If increased productivity that is attributable to an implemented suggestion results in savings or increased revenues that can be computed as provided by Subsection (c) of this section but that will not allow the affected agency to transfer or to have an unexpended balance of appropriated money, the commission and the affected agency shall certify the amount of actual or projected savings or increased revenues that are attributable to the suggestion, and the comptroller shall transfer 20 percent of that amount from the fund or funds affected by the savings or increased revenues to the special fund established for the commission under this section. Any amounts that remain in the commission's special fund established under this section on the last day of a state fiscal biennium shall be transferred by the comptroller to the General Revenue Fund or other funds as appropriate.

SECTION 3. Section 2.004(a), Texas Incentive and Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Each [~~full-time~~] state employee [~~who is a classified employee under the Position Classification Act of 1961 (Article 6252-11, Vernon's Texas Civil Statutes)~~] is eligible to participate in the program except an employee:

(1) who has authority to implement the suggestion being made;

(2) who is on an unpaid leave of absence;

(3) whose job description includes responsibility for cost analysis, efficiency analysis, savings implementation, or other related programs within the employee's agency;

(4) involved in or who has access to agency research and development programs, if that information is used as the basis of the suggestion; or

(5) whose job description or routine job duties include developing the type of change in the operations of that agency that is recommended by the suggestion.

SECTION 4. Section 2.005, Texas Incentive and Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes), is amended by adding Subsection (g) to read as follows:

(g) If an agency adopts a policy or procedure as a result of an employee suggestion before the suggestion is submitted to the agency coordinator as provided by Subsection (a) of this section, the commission may grant a bonus or issue a certificate of appreciation to the employee or employees who made the suggestion as provided by this article. Before the commission grants a bonus or issues a certificate of appreciation under this subsection, an agency or an employee must demonstrate to the commission that:

(1) the employee or employees who will receive the bonus or a certificate of appreciation are eligible under this article;

(2) the suggestion is an eligible suggestion under this article;

(3) the employee or employees proposed a reasonable method of implementation and described the type of benefits or savings foreseen to the agency before agency implementation; and

(4) the agency adopted the policy or procedure as a result of the suggestion.

SECTION 5. Section 2.006, Texas Incentive and Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.006. INELIGIBLE SUGGESTIONS. An employee is not eligible to receive an award under this article for a suggestion that:

(1) does not describe a method to achieve the desired savings or benefit;

(2) proposes ideas under implementation or consideration on the date that the suggestion is submitted to the agency;

(3) relates only to personnel matters or grievances, including employee classification or compensation;

(4) proposes a correction for a condition that resulted only because applicable established procedures were not properly followed; or

(5) proposes implementation of a policy or procedure that was [~~has already been~~] adopted by the employee's agency before the employee made the suggestion to the agency.

SECTION 6. Section 3.002(a), Texas Incentive and Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The [~~Not later than July 1 of each year, the~~] executive director of a state agency may submit a plan to the commission that outlines a strategy to be followed by that agency or a division within that agency that, if implemented, would cause the agency or division to qualify for a productivity bonus under this article.

SECTION 7. Section 3.005(b), Texas Incentive and Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The state treasurer shall create in the productivity bonus fund a productivity bonus account for each state agency or division participating in the productivity bonus program. During the course of the fiscal year, the executive director of an eligible agency shall monitor agency or division activities during that period and shall estimate the savings resulting from increased economy and efficiency. At the end of the fiscal year, the executive director shall certify the amount of savings to the comptroller, who shall transfer three-fourths of that amount from the appropriation of the state agency to the agency's or division's productivity bonus

account and one-fourth of that amount from the appropriation of the state agency to an account established for the commission in the fund, from which the commission may administer this Act.

SECTION 8. Section 3.007(b), Texas Incentive and Productivity Act (Article 6252-29a, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) From the funds in the state agency's or division's productivity bonus account, the commission shall award to the eligible employees of the agency or division an amount not to exceed 25 percent of the amount in that account. [~~An employee must be a classified employee under the Position Classification Act of 1961 (Article 6252-11, Vernon's Texas Civil Statutes) to be eligible for an award or bonus under this article.~~] The awarded amount shall be distributed in equal shares to the eligible current employees of the agency or division. A bonus made to any individual employee may not exceed $5,000. An eligible employee who worked in the agency or division for less than the full fiscal year or on a part-time basis is entitled to a pro rata share based on the fraction of the fiscal year and the average fraction of the work week that the employee worked in the agency or division. An eligible employee under this section is an employee who:

(1) is an hourly, part-time, or temporary employee;

(2) is a classified employee under the Position Classification Act of 1961 (Article 6252-11, Vernon's Texas Civil Statutes); or

(3) performs functions that are equivalent to functions performed by a classified employee in other state agencies.

SECTION 9. The changes in law made by this Act that relate to the eligibility of a state employee to receive an award under the state employee incentive program or the productivity bonus program apply only to a suggestion made by a state employee on or after the effective date of this Act.

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

The amendment was read.

Senator Leedom moved to concur in the House amendment to **S.B. 603**.

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

GUESTS PRESENTED

Senator Truan was recognized and introduced a group of juniors and seniors from Banquete Independent School District and their principals, Corky Crain and Paul Smith.

The Senate welcomed these guests.

CAPITOL PHYSICIAN

The President Pro Tempore recognized Senator Barrientos, who presented Dr. Joseph Martin of Austin as the "Doctor for the Day."

Dr. Martin is participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians and was made welcome by the Senate.

SENATE BILL 769 ON SECOND READING

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

S.B. 769, Relating to acquisition of certain postal service information for use by the secretary of state in maintaining a statewide voter registration file.

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

SENATE BILL 769 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 769** be placed on its third reading and final passage.

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

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

SENATE BILL 654 WITH HOUSE AMENDMENT

Senator Parker called **S.B. 654** from the President's table for consideration of the House amendment to the bill.

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

Amendment - Perez

Amend **S.B. 654** on page 6, immediately following line 25, by inserting the following:

(c) It is a defense to a claim under this section that the transfer was made in the ordinary course of business by the person making the transfer.

The amendment was read.

Senator Parker moved to concur in the House amendment to **S.B. 654**.

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

SENATE BILL 595 WITH HOUSE AMENDMENT

Senator Parker called **S.B. 595** from the President's table for consideration of the House amendment to the bill.

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

Amendment - Martin

Amend **S.B. 595** by substituting the following:

A BILL TO BE ENTITLED
AN ACT

relating to the change of domicile of insurance companies and health maintenance organizations.

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

SECTION 1. Chapter One, Insurance Code, is amended by adding Article 1.38 thereto to read as follows:

Article 1.38. REDOMESTICATION OF INSURERS. (a) Any insurer or health maintenance organization which is organized under the laws of any other state and which is authorized to do business in this state for the purpose of writing insurance or providing a health care plan, may become a domestic insurer or health maintenance organization, respectively, domiciled in this state upon the approval of the commissioner by amending or restating its articles of incorporation to comply

with all of the requirements of this code relative to the organization and licensing of a domestic insurer or health maintenance organization, respectively, of the same type. Said redomesticated insurer or health maintenance organization shall be deemed to be domiciled in this state and shall be entitled to like certificates and licenses to transact business in this state, without interruption of its licenses in this state, as a domestic insurer or health maintenance organization, respectively, and shall be subject to the authority and jurisdiction of this state.

(b) Any domestic insurer or health maintenance organization organized under the laws of this state may change its domicile to any other state in which it is authorized to transact the business of insurance or provide a health care plan upon the approval of the commissioner and the supervising regulatory official of the new domiciliary state, and, upon such approval, shall cease to be a domestic insurer or health maintenance organization, respectively, but shall be admitted to this state as a qualified foreign insurer or health maintenance organization, respectively, without interruption of its licenses in this state, at the effective date of the redomestication. The commissioner may approve any such proposed redomestication unless it is determined that such change is not in the interest of the policyholders or enrollees of this state or that such domestic insurer or health maintenance organization cannot qualify for license in this state as a foreign insurer or health maintenance organization, respectively.

(c) Any foreign insurer or health maintenance organization organized under the laws of any other state and admitted to transact business in this state may, upon proper notice to and approval by the commissioner, change its domicile by merger, consolidation, redomestication or other lawful method to another foreign state without interruption of its licenses in this state as a foreign insurer or health maintenance organization, respectively, by amendment or restatement of its articles of incorporation as required by law and if the commissioner determines that:

(1) The change in domicile does not result in a reduction of either the capital or surplus of the insurer or the health maintenance organization below the requirements for admission as a foreign insurer or health maintenance organization, respectively, at the effective date of redomestication;

(2) There is no material change in the lines of insurance to be written or health care plan provided by the insurer or health maintenance organization, respectively;

(3) The change in domicile of the insurer or health maintenance organization has been approved by the supervising regulatory officials of both the former and new state of domicile;

(4) The change of domicile is not detrimental to the interest of the insurer's policyholders or the health maintenance organization's enrollees in this state; and

(5) The redomestication is not related to a change in the control of the insurer or health maintenance organization, unless the commissioner has given prior approval to such change in control; provided, however, that this provision shall not apply if the redomesticating insurer or health maintenance organization is to become a parent, subsidiary or affiliate of a qualified insurer or health maintenance organization that has held a certificate of authority in this state for at least seven years prior thereto.

(d) The approved agents' appointments and licenses, the approved policy forms and provider contracts, the current authorized premium rates, the quality of care certificates and other relevant items which are in existence at the effective date any insurer or health maintenance organization redomesticates its corporate domicile to this or any other state by merger, consolidation, redomestication, or other lawful method, shall continue in full force and effect upon such redomestication if such insurer or health maintenance organization remains duly qualified to transact the business of insurance or the business of a health maintenance organization, respectively, in this state. All outstanding policies, evidence of coverage, provider

contracts or quality of care certificates of any redomesticating insurer or health maintenance organization shall remain in full force and effect in the redomesticated insurer or health maintenance organization, respectively. In the event of a change in such insurer's or health maintenance organization's name, all outstanding policies of insurance or evidence of coverage shall be endorsed with the new name. Every such redomesticated insurer or health maintenance organization shall file either an endorsement or new policy or evidence of coverage forms with the commissioner giving effect to the change of domicile. Such redomesticated insurer or health maintenance organization may use the existing approved policy or evidence of coverage forms of the redomesticating insurer or health maintenance organization with appropriate endorsements under such conditions as approved by the commissioner.

(e) The admitted assets of the redomesticating insurer or health maintenance organization which qualify as admitted assets under the appropriate section of the Texas Insurance Code as of the effective date of the redomestication will continue to quality as admitted assets after the redomestication, subject to the provisions of the appropriate laws in effect at the time of redomestication or any changes to such laws thereafter.

(f) Every such redomesticating insurer or health maintenance organization shall notify the commissioner of the details of the proposed change and redomestication, and shall file promptly with the commissioner any amendments to its corporate documents as are filed or required to be filed with the commissioner. Upon approval of the redomestication the commissioner will issue an amended certificate of authority.

(g) The Board may promulgate and adopt such rules and regulations as it deems necessary to carry out the stated purposes of this article.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage and it is so enacted.

The amendment was read.

Senator Parker moved to concur in the House amendment to **S.B. 595.**

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

GUESTS PRESENTED

The President Pro Tempore acknowledged the presence of former Attorney General Jim Mattox and United States Congressman Charles Wilson.

The Senate welcomed these gentlemen.

(President in Chair)

MOTION TO PLACE COMMITTEE SUBSTITUTE SENATE BILL 971 ON SECOND READING

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

C.S.S.B. 971, Relating to a requirement that each hospital and mental health and mental retardation facility provide certified interpreters to assist a patient who is hearing impaired.

There was objection.

Senator Truan then moved to suspend the regular order of business and take up **C.S.S.B. 971** for consideration at this time.

The motion was lost by the following vote: Yeas 16, Nays 14. (Not receiving two-thirds vote of Members present)

Yeas: Barrientos, Brooks, Carriker, Dickson, Ellis, Green, Johnson, Lucio, Lyon, Moncrief, Parker, Rosson, Tejeda, Truan, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brown, Glasgow, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Montford, Ratliff, Sibley, Sims.

Absent: Turner.

COMMITTEE SUBSTITUTE SENATE BILL 997 ON SECOND READING

On motion of Senator Whitmire 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. 997, Relating to notice to a purchaser of real property in a water district.

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

COMMITTEE SUBSTITUTE SENATE BILL 997 ON THIRD READING

Senator Whitmire moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 997** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1425 ON SECOND READING

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

H.B. 1425, Relating to the identification of crab traps in public water.

The bill was read second time.

Senator Brown offered the following committee amendment to the bill:

Amend **H.B. 1425** by striking Subsection (c), lines 10 through 13, in its entirety and substituting the following:

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

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

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

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1425 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1425** be placed on its third reading and final passage.

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

Nays: Armbrister.

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

RECORD OF VOTE

Senator Armbrister asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 1520 ON SECOND READING

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

C.S.S.B. 1520, Relating to the regulation of an employer of certain temporary common workers; providing penalties.

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

COMMITTEE SUBSTITUTE SENATE BILL 1520 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1520** be placed on its third reading and final passage.

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

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

SENATE BILL 1511 ON SECOND READING

On motion of Senator Sims 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. 1511, Relating to the eligibility of certain aliens to receive unemployment compensation benefits.

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

SENATE BILL 1511 ON THIRD READING

Senator Sims moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 1511** be placed on its third reading and final passage.

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

Nays: Armbrister.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 1725 ON SECOND READING

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

H.B. 1725, Relating to the shipment of pipe in a pipe box over certain state roads.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1725 ON THIRD READING

Senator Truan moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1725** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUEST PRESENTED

The President acknowledged the presence of United States Congressman Jim Chapman.

The Senate welcomed Congressman Chapman.

COMMITTEE SUBSTITUTE SENATE BILL 1543 ON SECOND READING

On motion of Senator Parker 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. 1543, Relating to flood prevention and control; making appropriations.

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

COMMITTEE SUBSTITUTE SENATE BILL 1543 ON THIRD READING

Senator Parker moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1543** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Dallas, Henderson, Johnson, Krier, Lucio, Lyon, Moncrief, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Harris of Tarrant, Leedom.

Present-not voting: Montford.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2, Present-not voting 1. (Same as previous roll call)

(Senator Armbrister in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 1066 ON SECOND READING

On motion of Senator Dickson 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. 1066, Relating to the regulation of the sale of checks.

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

COMMITTEE SUBSTITUTE SENATE BILL 1066 ON THIRD READING

Senator Dickson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1066** be placed on its third reading and final passage.

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

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

(President in Chair)

SENATE BILL 780 ON THIRD READING

Senator Green moved that the regular order of business be suspended and that **S.B. 780** be placed on its third reading and final passage.

S.B. 780, Relating to the issuance of a license to carry a concealed handgun; providing penalties.

The motion prevailed by the following vote: Yeas 23, Nays 7.

Yeas: Armbrister, Bivins, Brooks, Carriker, Dickson, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Krier, Lucio, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Turner, Whitmire, Zaffirini.

Nays: Barrientos, Ellis, Henderson, Johnson, Leedom, Lyon, Truan.

Absent: Brown.

The bill was read third time.

Senator Moncrief offered the following amendment to the bill:

Floor Amendment No. 1

Amend **S.B. 780** as follows:

(1) In Section 1 of the bill, in Section 5 of Article 4413(29ee), in Subsection (e), insert the following after "officer.": "The director may take such other actions deemed necessary to complete the processing and investigation of the application."

(2) In Section 1 of the bill, in Section 7 of Article 4413(29ee), in Subsection (a), insert the following after "application.": "In a proceeding under this Section a justice of the peace shall act as an administrative hearing officer. A hearing under this Section is not subject to the provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The department

may be represented by a district or county attorney, the Attorney General, or a designee of the department."

(3) In Section 1 of the bill, in Section 7 of Article 4413(29ee), in Subsection (c), in the first sentence, strike the words "was wrongful" and substitute "is supported by a preponderance of the evidence."

(4) In Section 1 of the bill, in Section 7 of Article 4413(29ee), in Subsection (c), in the second sentence, strike the words "substantiated facts" and substitute "a preponderance of the evidence".

(5) In Section 1 of the bill, in Section 7 of Article 4413(29ee), strike Subsection (d) and substitute the following:

"(d) A proceeding under this Section is subject to the provisions of Chapter 105, Civil Practice and Remedies Code, relating to fees, expenses, and attorney's fees."

(6) In Section 1 of the bill, in Section 7 of Article 4413(29ee), add new Subsection (e) to read as follows:

"(e) A party adversely affected by the court's ruling following a hearing under this Section may appeal the ruling by filing within 30 days after such ruling a petition in a county court at law in the county in which the applicant resides, or if there is no county court at law in the county, in the county court of the county. A person who appeals under this section must send a copy of the person's petition, certified by the clerk of the court in which the petition is filed, to the department by certified mail. The trial on appeal shall be a trial de novo. The department may be represented by a district or county attorney, or the Attorney General."

(7) In Section 1 of the bill, strike Section 15 of Article 4413(29ee), and substitute the following:

"Sec. 15. LIMITATION OF LIABILITY. A court may not hold the state, an agency or subdivision of the state, or an officer or employee of the State liable for damages caused by an action taken under this Act or failure to perform a duty imposed by this Act."

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

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 2

Amend **S.B. 780** as follows:

Amend SECTION 1, Sec. 4 by adding the following subsection,

The applicant must demonstrate, to the Department's satisfaction, a particularized need for a license to be issued under this act. The applicant must establish that he/she is subject to a level of danger that is greater than that to which the general public is routinely subjected, and the Department shall establish rules by which this subsection shall be implemented.

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

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 3

Amend **S.B. 780** by striking "$100" on line 46, page 2, and inserting "$250".

The amendment was read.

On motion of Senator Lyon and by unanimous consent, the amendment was withdrawn.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 4

Amend **S.B. 780**, page 2, line 66 by inserting the following new subsection to Section 4 "Application" and renumber accordingly:

(11) proof of having taken a psychological examination as a part of the application process. The proof shall be in a form and manner satisfactory to the department. The test shall have been administered within the 30 day period immediately prior to the filing of the application with the department.

The amendment was read.

Senator Green moved to table the amendment.

Question—Shall Floor Amendment No. 4 be tabled?

HOUSE CONCURRENT RESOLUTION 186

The President laid before the Senate the following resolution:

WHEREAS, The success of American and allied military forces in Operation Desert Storm has engendered a tremendous sense of national pride and an outpouring of patriotic gratitude and appreciation for the gallant servicemen and servicewomen who, by their personal valor, devotion to duty, and consummate professionalism, made victory complete; and

WHEREAS, Among those troops deserving of special recognition for their contributions in the Persian Gulf war are the 24,000 dedicated soldiers from Fort Hood who played a vital role in carrying out the strategy that led to a quick and decisive victory; and

WHEREAS, Constituting almost half of the 50,000 active duty, reserve, and national guard personnel from Texas deployed in the Persian Gulf, these men and women made up the largest contingent provided by any U.S. military base and reflected Fort Hood's traditional role as a key component in our nation's defense system; and

WHEREAS, Known throughout the Army as the "Great Place," the 340-square mile post located in Coryell and Bell counties is the largest armored installation in the free world today and the only post in the United States that accommodates two armored divisions; and

WHEREAS, Fort Hood is home to the III Armored Mobile Corps commanded by General Richard Graves, which contributed key combat and support units to the coalition campaign, including the 1st Cavalry Division, the 2nd Armored Division, the 13th Corps Support Command, the 3rd Signal Brigade, the 504th Military Intelligence Brigade, the 89th Military Police Brigade, the 6th Cavalry Brigade, the 3rd Personnel Group, the 502nd and 541st Personnel Service companies, and the 1st and 2nd Medical groups; and

WHEREAS, Playing a major role in the ground war, these Fort Hood units inevitably bore a large share of the casualties suffered by American troops, and our elation at the near miraculous victory achieved by our men and women in uniform is thus tempered by sadness as we remember the heroic sacrifices made by members of these units; and

WHEREAS, Of the total casualties suffered by U.S. military forces, almost 10 percent were suffered by Fort Hood personnel as 11 gallant young men gave their lives in the cause of freedom and justice and 20 others were wounded; and

WHEREAS, Called upon to make the ultimate sacrifice, each of these young men died a hero's death: Pfc. Ardon Cooper, Company A, 1st Battalion, 5th Cavalry, 1st Cavalry Division; Sgt. Ronald M. Randazo, Company A, 1st Battalion, 5th Cavalry, 1st Cavalry Division; Pfc. David M. Wieczorek, Company C, 1st Battalion, 5th Cavalry, 1st Cavalry Division; Sgt. Jimmy Haws, Battery C, 4th Battalion, 5th Air Defense Artillery, 1st Cavalry Division; Specialist William F. Palmer, 545th Military Police Company, 1st Cavalry Division; Pfc. Roger E. Valentine, Battery A, 3rd Battalion, 82nd Field Artillery, 1st Cavalry Division; Sgt. Scotty Whittenberg, Company D, 27th Main Support Battalion, 1st Cavalry Division; Sgt. Harold P. Witzke, 3/67th Armored Battalion, 1st Tiger Brigade, 2nd Armored Division; 1st Lt. Daniel E. Graybeal, 3rd Platoon, 507th Medical Company, 13th Corps Support Command; Staff Sgt. Michael Robson, 3rd Platoon, 507th Medical Company, 13th Corps Support Command; and Warrant Officer Kerry P. Hein, 3rd Platoon, 507th Medical Company, 13th Corps Support Command; and

WHEREAS, As we prepare to greet the men and women of Fort Hood on their triumphant return with the joyous homecoming celebration they richly deserve, it is appropriate also to honor their fallen comrades whose sacrifices will serve as a constant reminder of the cost we must pay for the liberty and justice we cherish; now, therefore, be it

RESOLVED, That the Senate and the House of Representatives of the 72nd Texas Legislature hereby honor Fort Hood and all of its personnel for their important role in Operation Desert Shield and Operation Desert Storm and extend deepest sympathy to the families of the 11 selfless young men who gave their lives for their country during the Persian Gulf war; and, be it further

RESOLVED, That official copies of this resolution be prepared for the commanding officer of the III Armored Mobile Corps, General Richard Graves, and for the families of the 11 servicemen who gave their lives in the line of duty as an expression of highest regard and appreciation by 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.

GUESTS PRESENTED

Senator Dickson was recognized and introduced General Graves, General Mallori and General Tilelli of Fort Hood's III Armored Mobile Corps, and Colonel Ralph Francis of Bergstrom Air Force Base, along with other military personnel seated in the gallery.

The Senate welcomed these military guests.

An enrolled copy of **H.C.R. 186**, previously adopted by the Senate on Thursday, April 25, 1991, was prepared for the occasion and presented by the President.

(Senator Montford in Chair)

SENATE BILL 780 ON THIRD READING

The Senate resumed consideration of **S.B. 780** on third reading.

Question—Shall Floor Amendment No. 4 be tabled?

On motion of Senator Green, Floor Amendment No. 4 was tabled by the following vote: Yeas 16, Nays 13.

Yeas: Armbrister, Bivins, Brooks, Brown, Carriker, Green, Harris of Tarrant, Krier, Lucio, Montford, Ratliff, Rosson, Sibley, Sims, Tejeda, Zaffirini.

Nays: Barrientos, Ellis, Glasgow, Haley, Henderson, Johnson, Leedom, Lyon, Moncrief, Parker, Truan, Turner, Whitmire.

Absent: Dickson, Harris of Dallas.

(President in Chair)

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 5

Amend **S.B. 780** on page 4, line 21, by adding the following new subsection (g) to Section 6. LICENSE:

(g) the director may, in any permit issued under this article, limit the geographic area, circumstances, or times during the day, week, month, or year in or during which the permit is effective. The director may reduce the cost of the permit accordingly, if the permit is granted for one day only and at one place only.

The amendment was read.

On motion of Senator Green, the amendment was tabled by the following vote: Yeas 22, Nays 7.

Yeas: Armbrister, Bivins, Brooks, Brown, Carriker, Glasgow, Green, Haley, Harris of Tarrant, Krier, Lucio, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Turner, Whitmire, Zaffirini.

Nays: Barrientos, Ellis, Henderson, Johnson, Leedom, Lyon, Truan.

Absent: Dickson, Harris of Dallas.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 6

Amend **S.B. 780** on page 4, line 21, by adding the following new subsection (g) to Section 6. LICENSE:

(g) A license issued under this article shall, to the extent possible, be definite as to the hours of the day or night that an applicant shall be permitted to carry a handgun. The license shall also be restricted to the caliber of handgun for which the applicant has demonstrated use proficiency under Section 4 of this Act.

The amendment was read.

On motion of Senator Lyon and by unanimous consent, the amendment was withdrawn.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 7

Amend **S.B. 780** as follows:

Sec. 9 of the bill, EXPIRATION, Subsection (a) is amended by striking the word "fourth" and inserting the word "second", and subsection (b) of Section 9 is amended by striking the word "four" and inserting the word "three".

The amendment was read.

On motion of Senator Lyon and by unanimous consent, the amendment was withdrawn.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 8

Amend **S.B. 780** as follows:

Amend Article 4413 (29ee) in Subdivision (a) (6) by adding the following: The department shall promulgate rules providing a fee to an applicant who is a protected party pursuant to a court order.

Add between the words fee and paid, of $ 250,

Amend Sec. 18 RULES: FEES as follows:

Add before the word The the following, Subject to the provisions of Section 4 of Article 4413 (29ee), Subdivision (a) (6)

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

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

The bill as amended was finally passed by a viva voce vote.

RECORD OF VOTES

Senators Barrientos, Ellis, Henderson, Johnson, Leedom and Lyon asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE
SENATE BILL 1406 ON SECOND READING

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

C.S.S.B. 1406, Relating to the regulation of by-product materials and naturally occurring radioactive materials; making an appropriation.

There was objection.

Senator Zaffirini then moved to suspend the regular order of business and take up **C.S.S.B. 1406** for consideration at this time.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Bivins, Ratliff.

Absent: Harris of Dallas.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 1406** as follows:

Amend SECTION 1 by inserting a new subdivision (25) as follows:

(25) "Municipality" means any municipality incorporated on or before January 1, 1991, and if incorporated after January 1, 1991, a municipality containing a population of 201 or more inhabitants.

The amendment was read and was adopted by a viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.S.B. 1406** as follows:

Amend Sec. 401.274 (a) to read as follows: after the word "by-product" insert: material received from other persons, and after the words: "for disposal." insert: This section shall not apply to uranium ore disposed of in a tailings pond.

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The amendment was read and was adopted by a viva voce vote.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 3

Amend **C.S.S.B. 1406**, Sec. 401.273 (b) as follows:

On page 6, line 36, after the word "administering", insert a comma.

On page 6 line 37, delete the word "and" and between the words "monitoring" and "by-product" insert and enforcing

On page 6, line 39, after the word "administering", insert a comma.

On page 6, line 40, delete the word "and" and between the words "monitoring" and "by-product" insert and enforcing

The amendment was read and was adopted by a viva voce vote.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 4

Amend **C.S.S.B. 1406** by replacing Sec. 401.261, subsection (b) in SECTION 4, page ____, lines ____ through ____ with the following:

(b) A reference in this subchapter to naturally occurring radioactive material includes only that naturally occurring radioactive material that is a tailing, has radiological characteristics that are on average no greater than those of uranium mining and mill tailings, and has chemical, biological and physical characteristics similar to uranium mining and mill tailings. The board shall by rule identify those naturally occurring radioactive materials that are subject to this subchapter.

The amendment was read and was adopted by a viva voce vote.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 5

Amend **C.S.S.B. 1406** as follows:

Add "SECTION 11. This Act applies to any permit application, including permit applications for disposal sites operating under interim status, covered by the terms of this Act that is pending approval on the effective date of this Act. Any application for renewal of or amendment to a permit for an existing disposal site that includes a request for authorization to increase capacity at the disposal site shall comply with the terms of this Act; provided however, that the provisions of Section 401.274 of this Act shall not apply to an application for renewal of or amendment

to a permit for a disposal site in existence on the effective date of this Act." and renumber the subsequent sections appropriately.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini 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 by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1406 ON THIRD READING

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1406** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Nays: Bivins, Ratliff.

Absent: Harris of Dallas.

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

RECORD OF VOTES

Senators Bivins and Ratliff asked to be recorded as voting "Nay" on the final passage of the bill.

PROPOSED RULES FOR FLOOR CONSIDERATION OF REDISTRICTING BILLS AND AMENDMENTS

Senator Brooks offered the following rules for floor consideration of redistricting bills and amendments:

1. A bill, substitute, or amendment must describe the district(s) in terms of counties, 1990 census tracts and block numbering areas (BNAs), and census blocks.

2. A bill, substitute, or amendment must be accompanied by:

   a. If more than one county is affected, a map of the state clearly showing the district boundaries. The map of the state also must clearly show county boundaries and county names. It also must be a map from which legible copies can be made in black and white in 11" by 17" or smaller size.

   b. For each county divided in the bill, substitute, or amendment, a map of the county clearly showing the district boundaries. The map also must clearly show either (1) census tract or BNA boundaries and numbers or (2) VTD boundaries and numbers. It also must be a map from which legible copies can be made in black and white in 11" by 17" or smaller size.

   c. A report showing, for each district included in the bill, substitute, or amendment, its total and voting age population according to the 1990 federal decennial census, its deviation from the ideal district population, its black, hispanic, and black plus hispanic population, and its black, hispanic, and black plus hispanic voting age population. The requirement for an analysis using 1990 census data that is currently unadjusted does

not preclude anyone from offering alternative data as part of the argument for a proposed plan.

d. A report showing, for each district included in the bill, substitute, or amendment, each whole county, split county, whole VTD in a split county, and census block in a split VTD included in the district, and the total, black, hispanic, and black plus hispanic population of each of these geographic units.

e. A REDAPPL report verifying that each district is contiguous.

f. For bills or substitutes that include all districts statewide, a REDAPPL report verifying that no portion of the state is missing from the bill or substitute.

g. For bills or amendments that include all districts in a county, where all districts are wholly contained within the county, a REDAPPL report verifying that no portion of the county is missing from the bill or amendment.

3. Districts must be numbered as follows:
Congressional Districts 1-30
Senate Districts 1-31
House Districts 1-150
State Board of Education Districts 1-15

4. All parts of a district must be contiguous; that is, a district may not have two discrete parts that do not touch or that touch only at a point.

5. An amendment to a redistricting bill must include all districts affected by the proposed change so that no portion of the state is left unassigned and no portion of the state is assigned to more than one district when the amendment is incorporated into the plan.

6. All redistricting bills will be verified through the legislative redistricting computer system prior to final passage.

7. If the description and the map for an adopted amendment differ on the composition of a district, the map version of the district will be incorporated into the bill. A notice of the discrepancy between the description and the map will be prepared for the members.

8. City limit boundaries that do not coincide with features used as permanent census block boundaries cannot be used as district boundaries.

On motion of Senator Brooks and by unanimous consent, the proposed rules for floor consideration of redistricting bills and amendments were adopted by a viva voce vote.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 11.11

was suspended in order that the Committee on State Affairs might consider the following bills today:

S.B. 1597
H.B. 1607

SENATE RULE 11.11 SUSPENDED

On motion of Senator Truan and by unanimous consent, Senate Rule 11.11 was suspended in order that the Subcommittee on Water might consider **H.B. 1552** today.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Barrientos 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.

CONGRATULATORY RESOLUTIONS

S.C.R. 139 - By Barrientos: Extending sincere best wishes to the citizens of Hays County for a most successful and jubiliant San Marcos-Hays County Day at the State Capitol.

S.R. 720 - By Barrientos: Honoring Mr. Sergio Fernando Ferran on the occasion of his 38th birthday.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 1:37 p.m. adjourned, in memory of Chief Deputy Sheriff Ken Norris Meister of Zavala County, until 11:00 a.m. tomorrow.

APPENDIX

Sent to Governor
(May 13, 1991)

S.C.R. 122
S.B. 32
S.B. 239
S.B. 615
S.B. 729
S.B. 843
S.B. 1131
S.B. 1290

In Memory

of

Ken Norris Meister

Senator Zaffirini offered the following resolution:

(Senate Resolution 703)

WHEREAS, The Senate of the State of Texas joins with the citizens of Zavala County in mourning the untimely loss of Ken Norris Meister on April 20, 1991, at the age of 45; and

WHEREAS, Born and raised in Crystal City, Texas, Ken Meister worked with the Department of Corrections in Huntsville before joining the Zavala County Sheriff's Department eight years ago; and

WHEREAS, He became Chief Deputy for the Zavala County Sheriff's Department and was well known throughout the county for his dedication to his career; and

WHEREAS, He was killed in the line of duty while performing as an undercover agent during a drug sting operation that ended in Atascosa County; and

WHEREAS, Ken Meister was a superior law enforcement officer who loved his profession; he was uncommonly brave and was devoted to improving the safety and welfare of the community; and

WHEREAS, He has received widespread acclaim for his professional response while under fire shortly before he died; though mortally wounded, he returned fire, which aided in the deaths of two suspects and the wounding and arrest of another; and

WHEREAS, Ken Meister was an exemplary gentleman who was loved and respected by many, and he will long be remembered for his valor, warmth, and dedication to helping his fellowman; and

WHEREAS, He lived life to the fullest and was a devoted husband and father who leaves behind memories that will be treasured forever by his family and many friends; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, hereby extend sincere condolences to the bereaved family of Ken Norris Meister: his wife, Shelley Meister; his children, Welcome Traveler and Whitney Lavonne; his mother, Elenora; his brothers, Arnold Meister, Ned Meister, and Roger Meister; and his sisters, Lenora Meister and Elaine Lockwood; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Ken Norris Meister.

The resolution was read.

Upon recognition, Senator Zaffirini introduced Shelley Meister, wife of Ken Norris Meister, and his brothers, Arnold, Ned and Roger Meister.

An enrolled copy of **S.R. 703**, previously adopted by the Senate on Thursday, May 9, 1991, was presented to the family by the President.