

SEVENTY-EIGHTH DAY

TUESDAY, MAY 25, 1999

PROCEEDINGS

The Senate met at 10:00 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, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Luna.

The President announced that a quorum of the Senate was present.

The Reverend Ann Beaty, Tarrytown United Methodist Church, Austin, offered the invocation as follows:

Almighty God, we pause for a moment on this new day of business to be aware of Your presence in our midst. Help us to remember that this day is a gift of life from You. In the midst of a busy schedule and full agenda, may we begin this day more conscious of our many good gifts.

We pray especially for those in the Senate and for their staff. We pray that, as they seek to be focused on the matters of our state, they will be guided by Your clarity, wisdom, and discernment. We pray not only for the work they do on our behalf, but we pray for them and the particular situations of concern and celebration going on in their personal lives.

Some of us come carrying concerns for our families or friends. We lift those concerns to You so that Your comforting peace can hold us and sustain us. Your strength can give us courage to face our difficulties, and Your wisdom and guidance can lead our decision-making.

We pray for our local community, our state, and our world. We pray for all the situations of fighting and war, for those living with loss and grief, for those struggling in poverty, and for all the many situations that never make the front page of our newspapers.

God, there is a lot in our world that is uncertain, but we know for sure that each one of us will have opportunities in this day to touch lives for good. May Your presence give us the "nudge" we need to bring Your love and peace to all we meet. Amen.

Senator Truan asked unanimous consent to dispense with the reading of the Journal of the proceedings of yesterday.

There was objection.

Senator Truan then moved to dispense with the reading of yesterday's Journal.

The motion prevailed by the following vote: Yeas 19, Nays 8.

Yeas: Armbrister, Bivins, Brown, Carona, Duncan, Fraser, Harris, Haywood, Jackson, Lucio, Madla, Moncrief, Nelson, Nixon, Ratliff, Shapiro, Sibley, Truan, Wentworth.

Nays: Barrientos, Bernsen, Cain, Ellis, Gallegos, Shapleigh, West, Zaffirini.

Absent: Lindsay, Ogden, Whitmire.

Absent-excused: Luna.

The Journal was approved.

LEAVE OF ABSENCE

On motion of Senator Barrientos, Senator Luna was granted leave of absence for today on account of illness.

RECESS

On motion of Senator Truan, the Senate at 10:36 a.m. recessed until 11:00 a.m. today.

AFTER RECESS

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

CAPITOL PHYSICIANS

Senator Ogden was recognized and presented Drs. Mary Helen Morrow and Garth Morgan of Bryan as the "Doctors for the Day."

The Senate welcomed Dr. Morrow and Dr. Morgan and thanked them for their participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE RESOLUTION 967

Senator Shapiro offered the following resolution:

WHEREAS, The Senate of the State of Texas takes great pleasure in recognizing Tim Flynn, R.N., for his dedication to the good health of the legislators, the staff, and visitors to the State Capitol since the 73rd Legislative Session in 1993; and

WHEREAS, Tim, as he is known to almost everyone, is in charge of coordinating the introduction of the doctors in the house and senate chambers who volunteer during the session to serve each day; and

WHEREAS, Mr. Flynn is employed by the Texas Department of Public Safety as Capitol Nurse and was selected as District Five Community Health Nurse of the Year in 1994 by the Texas Nurses Association; and

WHEREAS, Born in Saint Louis, Missouri, Mr. Flynn is a 1984 graduate of The University of Texas at Austin with a bachelor of science degree in nursing; and

WHEREAS, Mr. Flynn and his lovely wife, Rebecca, are the proud parents of Jessica; the family relishes spending time together in the outdoors, where they enjoy camping, fishing, and windsurfing; and

WHEREAS, Bringing great skill and talent to his position as Capitol Nurse, Tim is extremely well informed in the medical field and is a credit to his profession; and

WHEREAS, Well known as a friendly gentleman, he has made countless friends among legislators and staffers alike; he is greatly admired by those who know and work with him; and

WHEREAS, His care and concern for others are reflected in his contributions to the health and comfort of the many people he has assisted through the years; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 76th Legislature, hereby commend and applaud Tim Flynn, R.N., for his compassion and expertise; and, be it further

RESOLVED, That a copy of this Resolution be prepared as an expression of the highest regard of the Texas Senate.

The resolution was read.

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

On motion of Senator Shapiro, the resolution was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Truan was recognized and introduced to the Senate a group of fourth- and fifth-grade students from T. G. Allen Elementary School in Corpus Christi, accompanied by their teachers.

The Senate welcomed its guests.

(Senator Ogden in Chair)

SENATE RESOLUTION 1018

Senator Bernsen offered the following resolution:

WHEREAS, Texans will celebrate the 75th anniversary of the founding of Lamar University in 1999, and such an august occasion is indeed worthy of special legislative recognition; and

WHEREAS, South Park Junior College opened its doors on March 8, 1923, in Beaumont; the institution underwent several name and status changes and earned the distinction of being the first junior college in the state to become a four-year state-supported college; in 1971 the Texas Legislature approved its current designation as Lamar University in honor of Mirabeau B. Lamar, the "Father of Education" in Texas; and

WHEREAS, The Lamar University System has grown through the years to encompass an extension center in Orange and the former Port Arthur College and the system merged in September 1995 with The Texas State University System, joining sister institutions Angelo State University, Sam Houston State University, Southwest Texas State University, and Sul Ross State University; and

WHEREAS, A dynamic educational, scientific, engineering, business, and cultural resource center, Lamar University is committed to teaching, research, and

service; providing students with a liberal education in the context of a global and multicultural environment, it currently offers 66 bachelor's degrees, 27 master's degrees, and two doctoral degrees; and

WHEREAS, The university updates its curriculum and implements new teaching methodologies to meet ever-changing demands, allowing it to deliver academic courses by interactive video and cable television as well as by more traditional means; in addition, it is home to the Lamar Language Institute, an intensive English language program for full-time students and college-bound foreign students, as well as other non-native English users at the university and in the community; and

WHEREAS, The campus centerpiece is the stately Mary and John Gray Library, an eight-story structure built to house about one million volumes and accommodate 1,200 students and faculty; the top floor, designated for future needs as expansion demands, now serves as an elegant reception center for meetings and conferences; and

WHEREAS, Physical facilities also include the 10,000-seat Montagne Center coliseum, home of the university's basketball teams and extra-curricular programs; Setzer Student Center; and the Spindletop/Gladys City Boomtown Outdoor Museum, which features exhibits of the state's early oil industry, beginning with the first gusher at Spindletop Hill near the Lamar campus; and

WHEREAS, Throughout its admirable history, Lamar University has effectively addressed the educational needs of its community, and in doing so it has greatly enhanced the educational, social, and cultural fabric of the southeast region of our state; now, therefore, be it

RESOLVED, That the Senate of the 76th Texas Legislature hereby commemorate the 75th anniversary of the founding of Lamar University and extend sincere best wishes to its administrators, faculty, staff, students, and alumni for continued success; and, be it further

RESOLVED, That an official copy of this resolution be prepared for prominent display at Lamar University as an expression of high regard by the Texas Senate.

The resolution was read.

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

On motion of Senator Bernsen, the resolution was adopted by a viva voce vote.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The Presiding Officer, Senator Ogden in Chair, announced the time had arrived to consider the executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given yesterday by Senator Wentworth.

Senator Wentworth moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The Presiding Officer asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees as reported by the Committee on Nominations were confirmed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

Members, Texas Board of Physical Therapy Examiners: Harvey Dean Aikman, Hidalgo County; Sylvia A. Dávila, Bexar County; Holly Ruth Hall, Grayson County; Michael Grady Hines, Smith County; Mary Thompson, Ph.D., Collin County.

BIRTHDAY GREETINGS EXTENDED

The Presiding Officer announced to the Senate that today was Assistant Senate Doorkeeper B. L. Parker's birthday.

The Senate extended its congratulations to Mr. Parker.

(President in Chair)

SENATE RESOLUTION 1089

Senator Ellis offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 76th Legislature, Regular Session, 1999, That Senate Rule 12.03 is suspended in part, as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences on **HB 713**, relating to the establishment and operation of the Toward EXcellence, Access, & Success (TEXAS) grant program and the Teach for Texas Grant Program; consolidating and revising financial aid, grant, and scholarship programs; and providing for the education, certification, and recruitment of teachers and faculty instructors, to consider and take action on the following matters:

(1) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, in Section 1 of the bill, in added Sections 56.304 and 56.305, Education Code, to read as follows:

[Sec. 56.304]

(h) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a TEXAS grant, in the event of a hardship or for other good cause shown, including a showing of a severe illness or other debilitating condition that may affect the person's academic performance or that the person is responsible for the care of a sick, injured, or needy person and that the person's provision of care may affect the person's academic performance, to receive a TEXAS grant while enrolled in a number of semester credit hours that is less than the number of semester credit hours required under Subsection (a)(5). The coordinating board may not allow a person to receive a TEXAS grant while enrolled in fewer than six semester credit hours.

[Sec. 56.305]

(g) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a TEXAS grant, in the event of a hardship or for other good cause shown, including a showing of a severe illness or other debilitating condition that may affect the person's academic performance or that the person is responsible for the care of a sick, injured, or needy person and that the person's provision of care may affect the

person's academic performance, to receive a TEXAS grant while enrolled in a number of semester credit hours that is less than the number of semester credit hours required under Subsection (a)(3). The coordinating board may not allow a person to receive a TEXAS grant while enrolled in fewer than six semester credit hours.

Explanation: This change is needed to allow the Texas Higher Education Coordinating Board to adopt rules to allow a student receiving a TEXAS grant to register for a reduced number of semester credit hours in the event of a hardship or for good cause shown.

(2) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, in Section 1 of the bill, in added Section 56.305, Education Code, to read as follows:

(f) A person who is eligible to receive a TEXAS grant continues to remain eligible to receive the TEXAS grant if the person enrolls in or transfers to another eligible institution.

Explanation: This change is needed to allow a student receiving a TEXAS grant to enroll in or transfer to another institution other than the institution the student originally attended.

(3) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, in Section 1 of the bill, in added Section 56.307, Education Code, to read as follows:

(h) The total amount of grants that a student may receive in an academic year under this subchapter and under Section 61.221 may not exceed the maximum amount authorized under Section 61.227.

(i) A public institution of higher education may not:

(1) charge a person attending the institution who also receives a TEXAS grant an amount of tuition and required fees in excess of the amount of the TEXAS grant received by the person; or

(2) deny admission to or enrollment in the institution based on a person's eligibility to receive a TEXAS grant or a person's receipt of a TEXAS grant.

(j) An institution may use other available sources of financial aid, other than a loan or a Pell grant, to cover any difference in the amount of a TEXAS grant and the actual amount of tuition and required fees at the institution.

(k) The legislature in an appropriations act shall account for tuition and required fees received under this section in a way that does not increase the general revenue appropriations to that institution.

Explanation: This change is needed to set a maximum amount that certain students may receive under the TEXAS grant program, to restrict the amounts of tuition and fees an institution of higher education may receive from a TEXAS grant recipient and from other sources, to clarify actions an institution may take with regard to TEXAS grant recipients, and to specify the effect of the grants on general revenue appropriations.

(4) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, in Section 1 of the bill, in added Subchapter M, Chapter 56, Education Code, to read as follows:

Sec. 56.311. LEGISLATIVE OVERSIGHT COMMITTEE. (a) The Legislative Oversight Committee on the TEXAS and Teach for Texas grant programs established by this subchapter is composed of six members as follows:

(1) three members of the senate appointed by the lieutenant governor; and
(2) three members of the house of representatives appointed by the speaker of the house of representatives.

(b) The committee shall:

(1) meet at least twice a year with the coordinating board; and

(2) receive information regarding rules relating to the TEXAS and Teach for Texas grant programs established by this subchapter that have been adopted by the coordinating board or proposed for adoption by the coordinating board.

(c) The committee may request reports and other information from the coordinating board relating to the operation of the TEXAS and Teach for Texas grant programs under this subchapter by the coordinating board.

(d) The committee shall review the specific recommendations for legislation related to this subchapter that are proposed by the coordinating board.

(e) The committee shall monitor the operation of the TEXAS and Teach for Texas grant programs established under this subchapter, with emphasis on the manner of the award of grants, the number of grants awarded, and the educational progress made by persons who have received grants under this subchapter.

(f) The committee shall file a report with the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each even-numbered year.

(g) The report shall include identification of any problems in the TEXAS and Teach for Texas grant programs operated under this subchapter with recommended solutions for the coordinating board and for legislative action.

Explanation: This change is needed to create a legislative oversight committee to oversee the TEXAS and Teach for Texas grant programs.

(5) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, to read as follows:

SECTION 11. Sections 54.215 and . . . , Education Code, are repealed.

SECTION 15. A person receiving a scholarship or other financial assistance under Section 54.215 or 54.216, Education Code, or Subchapter G, Chapter 56, Education Code, on the effective date of this Act may continue to receive a scholarship or other financial assistance under Section 54.215 or 54.216 or under Subchapter G, Chapter 56, Education Code, as applicable to the person on the effective date, until the person is no longer eligible for the scholarship or other assistance under Section 54.215 or 54.216, Education Code, or Subchapter G, Chapter 56, Education Code, as the applicable section or subchapter exists on January 1, 1999. The costs of the scholarships or other financial assistance authorized under this section shall be covered by the TEXAS grant program established by Subchapter M, Chapter 56, Education Code, as added by this Act.

Explanation: This change is needed to abolish the student financial assistance program for certain National Guard/ROTC students and to allow current National Guard/ROTC students to continue to receive assistance.

(6) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, to read as follows:

SECTION 17. (a) The Texas Higher Education Coordinating Board shall review and study the effect of the TEXAS grant program and the Teach for Texas grant

program established by Subchapter M, Chapter 56, Education Code, as added by this Act, on enrollments at institutions of higher education. The study shall determine whether there have been shifts in enrollments between universities and community colleges and whether those shifts were caused by the different grant amounts awarded to students at each institution. The report shall make recommendations for legislative changes to the methodology for calculating the amount of the grant awards, if needed.

(b) The Texas Higher Education Coordinating Board shall report its findings to the governor, the lieutenant governor, the speaker of the house of representatives, the presiding officer of each legislative committee with oversight responsibilities for higher education institutions, and the legislative oversight committee established under Subchapter M, Chapter 56, Education Code, as added by this Act, not later than December 1, 2000.

Explanation: This change is needed to allow the Texas Higher Education Coordinating Board to study and review the effects of the TEXAS grant program and the Teach for Texas grant program on enrollments at institutions of higher education.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

HOUSE CONCURRENT RESOLUTION 296

The President laid before the Senate the following resolution:

HCR 296, Instructing the enrolling clerk of the house to make technical corrections in **HB 1777**.

LUCIO

The resolution was read.

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

SENATE RESOLUTION 1105

Senator Carona offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 76th Legislature, Regular Session, 1999, That Senate Rule 12.03 is suspended, as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences between the house and senate versions of **SJR 12**, proposing a constitutional amendment relating to the making of advances under and payment of a reverse mortgage, to consider and take action on the following matter:

Senate Rules 12.03(3) and (4), are suspended to permit the committee to add new text to Section 50(k)(7), Article XVI, Texas Constitution, as amended by Section 1 of the joint resolution, to read as follows:
provided, however, that this subdivision does not apply when a governmental agency or instrumentality takes an assignment of the loan in order to cure the default

Explanation: This change is necessary to allow a governmental agency or instrumentality to take assignment of a reverse mortgage loan to cure a default without forfeiting principal and interest of the loan.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

CONCLUSION OF MORNING CALL

The President at 11:45 a.m. announced the conclusion of morning call.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 25, 1999

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 298, Instructing the enrolling clerk of the house to make technical corrections in **HB 1491**.

HCR 301, Congratulating Mrs. Helen Greathouse of Midland on her 90th birthday.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

(Senator Bivins in Chair)

HOUSE BILL 3120 ON SECOND READING

On motion of Senator Haywood 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:

HB 3120, Relating to the duties and salary of the county attorney of Carson County.

The bill was read second time.

Senator Haywood offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3120**, in SECTION 2 of the bill, in added Section 45.133, Government Code (Senate Committee Printing, page 1, between lines 40 and 41), by inserting the following:

(d) The county attorney of Carson County may not engage in the private practice of law but may complete all civil cases that are not in conflict with the interest of Carson County and that are pending in court before the county attorney takes office.

The county attorney may not accept a fee from an attorney to whom the county attorney has referred a case. This subsection applies to the county attorney of Carson County and any assistant of the county attorney if, from all state and county funds received, the county attorney or assistant receives a salary that is equal to or more than 80 percent of the benchmark salary. This subsection does not apply to the county attorney of Carson County if the county attorney files with the county auditor an annual written waiver of the amount of compensation that is equal to or exceeds 80 percent of the benchmark salary. An amount waived under this subsection shall be used for expenses of the county attorney's office. This subsection does not apply to the county attorney of Carson County if, before September 1, 1999, the county attorney was paid in excess of the benchmark salary by the county in which the prosecutor serves.

(e) In this section, "benchmark salary" means the salary that is provided for a district judge in the General Appropriations Act.

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

On motion of Senator Haywood 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 3120 ON THIRD READING

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3120** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 3120 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 954 ON SECOND READING

On motion of Senator Armbrister 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:

HB 954, Relating to the notice and public hearing requirements for a taxing unit to increase the unit's tax rate.

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

HOUSE BILL 954 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 954** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 954 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(President in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1851 ON SECOND READING**

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

CSHB 1851, Relating to guardianships and other related matters concerning incapacitated persons.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1851** as follows:

(1) Strike SECTION 9 of the bill (senate committee report, page 4, line 54, through page 5, line 2) and substitute the following:

SECTION 9. Section 867, Texas Probate Code, is amended to read as follows:

Sec. 867. CREATION OF MANAGEMENT TRUST. (a) On application by the guardian of a ward or by a ward's attorney ad litem or an incapacitated person's guardian ad litem at any time after the date of the ad litem's [attorney's] appointment under Section 646 or another provision of this code, the court in which the guardianship proceeding is pending may enter an order that creates for the ward's or incapacitated person's benefit a trust for the management of guardianship funds or funds of the incapacitated person's estate if the court finds that the creation of the trust is in the ward's or incapacitated person's best interests. Except as provided by Subsection (b) of this section, the court shall appoint a trust company or a state or national bank that has trust powers in this state to serve as trustee of the trust.

(b) The court may appoint a person other than a trust company or bank described by Subsection (a) of this section to serve as trustee of the trust only if:

(1) no trust company or bank described by Subsection (a) of this section is willing to serve as trustee;

(2) the value of the trust's principal is \$50,000 or less; and

(3) the court determines the appointment to be in the ward's best interests.

(c) The order shall direct the guardian or another person to deliver all or part of the assets of the guardianship to a person or corporate fiduciary appointed by the court as trustee of the trust [company or a state or national bank that has trust powers in this state]. The order shall include terms, conditions, and limitations placed on the trust. The court shall maintain the trust under the same cause number as the guardianship proceeding.

(2) Add the following appropriately numbered sections and renumber the existing sections of the bill accordingly:

SECTION __. Section 868(a), Texas Probate Code, is amended to read as follows:

(a) Except as provided by Subsection (d) of this section, a trust created under Section 867 of this code must provide that:

- (1) the ward is the sole beneficiary of the trust;
- (2) the trustee may disburse an amount of the trust's principal or income as the trustee determines is necessary to expend for the health, education, support, or maintenance of the ward;
- (3) the income of the trust that the trustee does not disburse under Subdivision (2) of this subsection must be added to the principal of the trust;
- (4) if the trustee is a corporate fiduciary, the trustee serves without giving a bond; and
- (5) the trustee, on annual application to the court and subject to the court's approval, is entitled to receive reasonable compensation for services that the trustee provided to the ward as the ward's trustee that is:
 - (A) to be paid from the trust's income, principal, or both; and
 - (B) determined in the same manner as compensation of a guardian of an estate under Section 665 of this code.

SECTION __. Subpart N, Part 4, Chapter XIII, Texas Probate Code, is amended by adding Section 868B to read as follows:

Sec. 868B. BOND REQUIREMENT FOR CERTAIN TRUSTEES. The court shall require a person, other than a corporate fiduciary, serving as trustee to file with the county clerk a bond in an amount equal to the value of the trust's principal and projected annual income and with the conditions the court determines are necessary.

SECTION __. Section 869A, Texas Probate Code, is amended to read as follows:

Sec. 869A. SUCCESSOR TRUSTEE. The court may appoint a [~~corporate fiduciary as~~] successor trustee if the trustee resigns, becomes ineligible, or is removed.

SECTION _____. The changes in law made by this Act to Sections 867, 868(a), and 869A, Texas Probate Code, and Section 868B, Texas Probate Code, as added by this Act, apply only to an application for the creation of a trust filed on or after that date. An application for the creation of a trust filed before the effective date of this Act is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

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

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1851** in SECTION 5 of the bill, in amended Section 761(c), Texas Probate Code (Senate committee report, page 3, lines 22-25), by striking Subdivision (9) and substituting the following:

(9) the court determines that there has been a dissolution of the joint guardians' marriage and only one of the joint guardians was named as managing conservator by a court with jurisdiction to decide child custody matters.

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

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1851 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1851** be placed on its third reading and final passage.

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

Absent-excused: Luna.

CSHB 1851 was read third time and was passed by a viva voce vote.

HOUSE BILL 2992 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:

HB 2992, Relating to the creation of a business technology outreach program at the University of Houston.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2992**, adding an appropriately numbered SECTION to read as follows:

"SECTION _____. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The 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 2992 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2992** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 2992 was read third time and was passed by a viva voce vote.

HOUSE BILL 2557 ON SECOND READING

On motion of Senator Ratliff 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:

HB 2557, Relating to the application of the open meetings law and the open records law to certain entities eligible to receive funds under the federal community services block grant program.

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

HOUSE BILL 2557 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2557** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 2557 was read third time and was passed by a viva voce vote.

HOUSE BILL 217 ON SECOND READING

On motion of Senator Ellis 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:

HB 217, Relating to excused absences from public school attendance for the purpose of observing religious holy days.

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

HOUSE BILL 217 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 217** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 217 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1504 ON SECOND READING

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

CSHB 1504, Relating to the establishment of a consortium of Alzheimer's disease centers.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1504 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1504** be placed on its third reading and final passage.

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

Absent-excused: Luna.

CSHB 1504 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3216 ON SECOND READING**

On motion of Senator Cain 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:

CSHB 3216, Relating to the standardization of credentialing of physicians.

The bill was read second time.

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3216**, SECTION 2, Sec. 7.09, by adding a new sentence at the end Sec. 7.09, following the words "confidentiality of the information.", to read "If the board contracts with an independent entity that is not a governmental unit to carry out the provisions of this subchapter, the independent entity is not immune from liability."

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

On motion of Senator Cain 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.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3216 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3216** be placed on its third reading and final passage.

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

Absent-excused: Luna.

CSHB 3216 was read third time and was passed by a viva voce vote.

HOUSE BILL 1398 ON SECOND READING

On motion of Senator Zaffirini 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:

HB 1398, Relating to indigent health care.

The bill was read second time.

Senator Zaffirini offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1398**, Subchapter C, Chapter 281, Health and Safety Code, Section 281.0514(a) on page 21, line 23, by deleting "shall" and inserting "may"

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

Senator Zaffirini offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 1398** as follows:

(1) On page 11, line 3, strike "and".

(2) On page 11, between lines 3 and 4, insert:

(10) services provided by federally qualified health centers, as defined by 42 U.S.C. Section 1396d(1)(2)(B); and

(3) On page 11, line 4, strike "(10)" and substitute "(11)".

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

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1398**, Senate Committee Report printing as follows:

Amend line 1-61 to read "services to eligible residents[-], including the primary teaching hospital of a state medical school located in a county which does not have a public hospital or hospital district, and the faculty members practicing in both the inpatient and outpatient care facilities affiliated with the teaching hospital.

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

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1398** in ARTICLE 1 of the bill by striking the recital to SECTION 1.15 of the bill (senate committee printing, page 8, lines 10-11), and substituting the following:

SECTION 1.15. Section 61.052, Health and Safety Code, is amended to read as follows:

Sec. 61.052. GENERAL ELIGIBILITY PROVISIONS. (a) A public hospital or hospital district shall provide health care assistance to each eligible resident in its service area who meets:

(1) the basic income and resources requirements established by the department under Sections 61.006 and 61.008 and in effect when the assistance is requested; or

(2) a less restrictive income and resources standard adopted by the hospital or hospital district serving the area in which the person resides.

(b) If a public hospital used an income and resources standard during the operating year that ended before January 1, 1985, that was less restrictive than the income and resources requirements established by the department under Section 61.006, the hospital shall adopt that standard to determine eligibility under this subchapter.

(c) If a public hospital did not use an income and resources standard during the operating year that ended before January 1, 1985, but had a Hill-Burton obligation

during part of that year, the hospital shall adopt the standard the hospital used to meet the Hill-Burton obligation to determine eligibility under this subchapter.

(d) A public hospital established after September 1, 1985, shall provide health care services to each resident who meets the income and resources requirements established by the department under Sections 61.006 and 61.008, or the hospital may adopt a less restrictive income and resources standard. The hospital may adopt a less restrictive income and resources standard at any time.

(e) If because of a change in the income and resources requirements established by the department under Sections 61.006 and 61.008 the standard adopted by a public hospital or hospital district becomes stricter than the requirements established by the department, the hospital or hospital district shall change its standard to at least comply with the requirements established by the department.

(f) A public hospital or hospital district may contract with the department to perform eligibility determination services.

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

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 1398** as follows:

(1) In SECTION 1.13, in amended Section 61.037, Health and Safety Code (senate committee printing, page 7, lines 30-38), strike added Subsection (j).

(2) In ARTICLE 1, following SECTION 1.13 (senate committee printing, page 7, between lines 56 and 57), insert new SECTION 1.14 to read as follows and renumber subsequent SECTIONS of ARTICLE 1 of the bill accordingly:

SECTION 1.14. Subchapter B, Chapter 61, Health and Safety Code, is amended by adding Section 61.0395 to read as follows:

Sec. 61.0395. LIMITED TO APPROPRIATED FUNDS. (a) The total amount of state assistance provided to counties under this chapter for a fiscal year may not exceed the amount appropriated for that purpose for that fiscal year.

(b) The department shall adopt rules governing the distribution of state assistance under this chapter that establish a maximum annual allocation for each county eligible for assistance under this chapter in compliance with Subsection (a).

(c) The rules adopted under this section:

(1) may consider the relative populations of the service areas of eligible counties and other appropriate factors; and

(2) notwithstanding Subsection (b), may provide for, at the end of each state fiscal year, the reallocation of all money that is allocated to a county under Subsection (b) but that the county is not eligible to receive and the distribution of that money to other eligible counties.

(3) At the end of ARTICLE 1 of the bill (senate committee printing, page 10, between lines 65 and 66), insert the following SECTION, appropriately numbered:

SECTION 1.____. For fiscal years 2000 and 2001, the rules adopted under Section 61.0395(b), Health and Safety Code, as added by this Act, must ensure that each county's annual allocation is equal to at least the average estimated annual amount of state assistance that the county would have been eligible to receive during each of the state fiscal years ending on August 31, 1997, August 31, 1998, and August 31, 1999, computed as if the eligibility threshold established by Section 61.037, Health and Safety Code, as amended by this Act, and the state

match rate established by Section 61.038, Health and Safety Code, as amended by this Act, had applied during those fiscal years.

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 1398** by inserting the following section, appropriately numbered, and renumbering the subsequent sections of the bill accordingly:

SECTION ____ Section 531.047, Government Code, as added by Chapter 1251, Acts of the 75th Legislature, Regular Session, 1997, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) In this section:

(1) "Health professional" means an advanced nurse practitioner, an allied health professional, a mental health professional, a physician, or a physician assistant who is licensed in this state.

(2) "Rural county" means a county that:

(A) has [~~with~~] a population of [~~less than~~] 50,000 or less; or

(B) contains an area that was not designated as an urban area by the United States Bureau of the Census according to the 1990 federal census and does not have within the boundaries of the county a hospital that:

(i) is licensed under Chapter 241, Health and Safety Code; and

(ii) has more than 100 beds.

(3) "Rural health facility" means a health facility that is located in a rural county and at least 30 miles from any accredited medical school or any teaching hospital affiliated with an accredited medical school and that is:

(A) a licensed, nonprofit hospital; [or]

(B) a health clinic that is affiliated with:

(i) an accredited medical school; [or]

(ii) a teaching hospital that is affiliated with an accredited medical school;

(iii) a hospital described by Paragraph (C); or

(iv) a federally-qualified health center, as defined by 42 U.S.C.

Section 1396d(1)(2)(B), as amended; or

(C) a hospital that:

(i) is licensed under Chapter 241, Health and Safety Code;

(ii) is owned or operated by a municipality, county, hospital district, or hospital authority; and

(iii) provides inpatient or outpatient services.

(4) "Telemedical consultation" means a medical consultation for purposes of patient diagnosis or treatment that requires the use of advanced telecommunications technology, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission via computer imaging for teleradiology or telepathology; and

(C) other technology that facilitates access in rural counties to health care services or medical specialty expertise.

(h) The commissioner shall establish an advisory committee to assist the commission in developing policies for telemedical consultations under this section.

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

Senator West offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 1398** by striking ARTICLE 2 (senate committee printing, page 10, line 66, through page 12, line 48) and substituting the following:

ARTICLE 2. TERTIARY MEDICAL CARE

SECTION 2.01. Subtitle B, Title 2, Health and Safety Code, is amended by adding Chapter 46 to read as follows:

CHAPTER 46. TERTIARY MEDICAL CARE

Sec. 46.001. DEFINITIONS. In this chapter:

(1) "Tertiary care facility" means a:

(A) primary teaching hospital of a medical school;

(B) level I trauma center;

(C) level II trauma center; or

(D) level III trauma center.

(2) "Tertiary medical services" includes, but is not limited to, services provided by state-designated trauma centers, burn center treatment, neonatology level III unit services, pediatric surgery, trauma surgery, neurosurgery, cardiothoracic and vascular surgery, organ transplant, services provided for a life-threatening dermatologic illness, services provided to a person with a high-risk pregnancy or cancer, and radiation oncology.

(3) "Stabilization services" means services provided by a tertiary care facility or a level IV designated trauma center that are necessary to assure, within reasonable medical probability, that no material deterioration of a patient's medical condition is likely to result from or occur during the transfer of the patient to a tertiary care facility.

(4) "Unreimbursed stabilization services" means stabilization services for which a tertiary care facility or level IV designated trauma facility has not received full payment from any public or private source.

(5) "Unreimbursed tertiary medical services" means tertiary care medical services for which a tertiary care facility has not received full payment from any public or private source.

Sec. 46.002. RULES. (a) The board may adopt rules to implement a system that encourages hospitals to provide tertiary medical services and stabilization services.

(b) The rules must address:

(1) coordination of tertiary medical services and stabilization services among health care facilities in the delivery area;

(2) pre-hospital care management guidelines for triage, transfer, and transportation of patients and periodic evaluation of tertiary care facilities' and level IV trauma facilities' compliance with the guidelines and the trauma facility rules, as appropriate;

(3) requirements for data collection, including patient outcomes;

(4) assurances that tertiary care facilities will not refuse to accept the transfer of a patient solely because of the person's inability to pay for services or because of the person's age, sex, race, religion, or national origin; and

(5) enforcement of the rules.

Sec. 46.003. TERTIARY CARE ACCOUNT. (a) The tertiary care account is an account in the state treasury. Money in the account may be appropriated only to the department for the purposes of this chapter.

(b) The account is composed of money appropriated to the account and any other funds required to be put in the account.

(c) The department may seek and accept gifts, grants, and donations from any public or private entity on behalf of the account.

(d) Section 403.095, Government Code, does not apply to the account.

(e) For each fiscal year, five percent of the total amount in the account shall be held in reserve and may be used only for reimbursement of unpaid tertiary medical services and stabilization services provided as a result of extraordinary emergencies occurring during that year. Of the amount remaining, not more than five percent may be used for the costs of administering the account.

(f) Except as provided by Subsection (e), the account shall be allocated for payment to tertiary care facilities and level IV trauma centers for unreimbursed tertiary medical services and stabilization services, as provided for in Sections 46.005 and 46.006.

Sec. 46.004. COLLECTION OF INFORMATION. (a) Each tertiary care facility or level IV trauma facility that seeks payment under this chapter shall submit to the department, in the manner and at the time required by the department, information that relates to the unreimbursed tertiary medical services or stabilization services provided to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under Chapter 61 in the area in which the tertiary care facility or level IV trauma facility is located.

(b) The board shall adopt rules governing the collection of the information under Subsection (a).

Sec. 46.005. CERTIFICATION TO COMPTROLLER OF UNREIMBURSED TERTIARY MEDICAL SERVICES. (a) The department shall certify to the comptroller for each tertiary care facility the cost of unreimbursed tertiary medical services provided to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under Chapter 61 in the area in which the tertiary care facility is located.

(b) In each fiscal year the department shall use at least 86 percent of the appropriated money in the tertiary care account to compensate tertiary care facilities for unreimbursed tertiary medical services.

(c) Each year the department shall make, for a facility that operated as a tertiary care facility during the previous year, an initial certification to the comptroller under Subsection (a) in an amount that equals 80 percent of the amount certified under this section for the facility in the previous year. The department shall make a subsequent certification of the cost of additional unreimbursed tertiary medical services provided by the facility on receipt from the facility of the information required to be submitted under Section 46.004.

(d) Except as provided by Subsection (e), each year the comptroller shall pay a tertiary care facility the certified amount determined under Subsection (a) from the funds specified under Section 46.003(f).

(e) If in any year the total cost of unreimbursed tertiary medical services certified under Subsection (a) for all tertiary care facilities exceeds the amount available for payment to all facilities under Section 46.003(f), less the amount allocated for stabilization services under Section 46.006(b), the department shall allocate the amount available under Section 46.003(f) to each facility based on the percentages computed by dividing the cost of the facility's unreimbursed tertiary medical services by the total cost of all facilities' unreimbursed tertiary medical services. The

comptroller shall pay each tertiary care facility based on the allocation made under this subsection.

(f) For purposes of this section and Section 46.007, the cost of each service provided by a tertiary care facility is the average amount payable under Medicare reimbursement policies for that service.

Sec. 46.006. CERTIFICATION TO COMPTROLLER OF UNREIMBURSED STABILIZATION SERVICES. (a) The department shall certify to the comptroller for each tertiary care facility or level IV trauma facility the cost of unreimbursed stabilization services provided to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under Chapter 61 in the area in which the tertiary care facility or level IV trauma facility is located.

(b) In each fiscal year the department shall use no more than four percent of the appropriated money in the tertiary care account to compensate tertiary care facilities and level IV trauma facilities for unreimbursed stabilization services.

(c) Each year the department shall make, for a facility that operated as a tertiary care facility or level IV trauma facility during the previous year, an initial certification to the comptroller under Subsection (a) in an amount that equals 80 percent of the amount certified under this section for the facility in the previous year. The department shall make a subsequent certification of the cost of additional unreimbursed stabilization services provided by the facility on receipt from the facility of the information required to be submitted under Section 46.004.

(d) Except as provided by Subsection (e), each year the comptroller shall pay a tertiary care facility or level IV trauma facility the certified amount determined under Subsection (a) from the funds specified under Section 46.003(f).

(e) If in any year the total cost of unreimbursed stabilization services certified under Subsection (a) for all tertiary care facilities or level IV trauma facilities exceeds the amount available for payment to the facilities under Section 46.003(f), as limited by Subsection (b), the department shall allocate the amount available to each facility based on the percentages computed by dividing the cost of the facility's unreimbursed stabilization services by the total cost of all facilities' unreimbursed stabilization services. The comptroller shall pay each tertiary care facility or level IV trauma facility based on the allocation made under this subsection.

(f) For purposes of this section and Section 46.007, the cost of each service provided by a tertiary care facility or level IV trauma facility is the average amount payable under Medicare reimbursement policies for that service.

Sec. 46.007. CERTIFICATION OF EMERGENCIES. (a) For purposes of reimbursing extraordinary emergencies under this chapter, the department shall certify an extraordinary emergency:

(1) if the governor issues an executive order or a proclamation under Chapter 418, Government Code;

(2) if a disaster is declared by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.); or

(3) for another similar disaster the department finds has resulted in an extraordinary cost to a tertiary care facility or level IV trauma facility.

(b) If an extraordinary emergency is certified under Subsection (a), the department shall certify to the comptroller the amount of unreimbursed tertiary medical services or stabilization services incurred by a tertiary care facility or level IV trauma facility, as appropriate, during the emergency.

(c) Except as provided by Subsection (d), each year the comptroller shall pay a tertiary care facility or level IV trauma facility the certified amount determined under Subsection (b) from the funds specified under Section 46.003(e).

(d) If in any year the total cost of unreimbursed tertiary medical services or stabilization services certified under Subsection (b) for all facilities exceeds the amount available for payment to the facilities under Section 46.003(e), the department shall allocate the amount available under Section 46.003(e) to each facility based on the percentages computed by dividing the cost of the facility's unreimbursed services by the total cost of all facilities' unreimbursed services. The comptroller shall pay each tertiary care facility or level IV trauma facility based on the allocation made under this subsection.

SECTION 2.02. Section 773.003, Health and Safety Code, is amended by adding Subdivision (22) to read as follows:

(22) "Trauma services" includes services provided to a severely or seriously injured patient who has a principal diagnosis listed in the Injuries and Poisonings Chapter of the International Classification of Diseases, Clinical Modification.

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

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 6

HB 1398 is amended by adding a new Section ___ to read as follows:

SECTION ____. Chapter 61, Health and Safety Code, is amended by adding Section 61.011 to read as follows:

Sec. 61.011. SERVICES BY STATE HOSPITAL OR CLINIC. A state hospital or clinic shall be entitled to payment for services rendered to an eligible resident under the provisions of this Chapter applicable to other providers. The department may adopt rules as necessary to implement this section.

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

Senator Bernsen offered the following amendment to the bill:

Floor Amendment No. 7

Amend **HB 1398** by adding the following ARTICLE, appropriately numbered, and renumbering ARTICLES and SECTIONS of the bill appropriately:

ARTICLE __. DISSOLUTION OF HOSPITAL DISTRICTS

SECTION __.01. Chapter 285, Health and Safety Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. DISSOLUTION OF HOSPITAL DISTRICT

Sec. 285.151. ASSETS TRANSFERRED ON DISSOLUTION. Notwithstanding any general or special law, if a hospital district is dissolved and the money or other assets of the district are transferred to a county or other governmental entity under a process established in accordance with Section 9, Article IX, Texas Constitution, the governmental entity shall use all transferred assets to:

(1) pay the outstanding debts and obligations of the district relating to the assets at the time of the transfer, if any; and

(2) furnish medical and hospital care for indigent persons who reside in the territory within the jurisdiction of the governmental entity.

The amendment was read.

On motion of Senator Bernsen and by unanimous consent, Floor Amendment No. 7 was temporarily withdrawn.

(Senator Shapiro in Chair)

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 8

Amend **HB 1398** by adding the following appropriately numbered article to the bill and renumbering existing articles accordingly:

ARTICLE ____ MISCELLANEOUS PROVISIONS
FOR INDIGENT HEALTH CARE

SECTION ____ Subtitle C, Title 2, Health and Safety Code, is amended by adding Chapter 64 to read as follows:

CHAPTER 64. MISCELLANEOUS PROVISIONS

Sec. 64.001. TEACHING HOSPITAL ACCOUNT. The Texas Department of Health state-owned multi-categorical teaching hospital account is an account in the general revenue fund. Money in the account may be appropriated only to the department to provide funding for indigent health care.

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 third reading by a viva voce vote.

HOUSE BILL 1398 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1398** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 1398 was read third time.

Senator Bernsen again offered the following amendment to the bill:

Floor Amendment No. 7

Amend **HB 1398** by adding the following ARTICLE, appropriately numbered, and renumbering ARTICLES and SECTIONS of the bill appropriately:

ARTICLE ____ DISSOLUTION OF HOSPITAL DISTRICTS

SECTION ____ .01 Chapter 285, Health and Safety Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. DISSOLUTION OF HOSPITAL DISTRICT

Sec. 285.151. ASSETS TRANSFERRED ON DISSOLUTION. Notwithstanding any general or special law, if a hospital district is dissolved and the money or other assets of the district are transferred to a county or other governmental entity under a process established in accordance with Section 9, Article IX, Texas Constitution, the governmental entity shall use all transferred assets to:

(1) pay the outstanding debts and obligations of the district relating to the assets at the time of the transfer, if any; and

(2) furnish medical and hospital care for indigent persons who reside in the territory within the jurisdiction of the governmental entity.

By unanimous consent, the amendment was again 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.

HB 1398 as again amended was finally passed by a viva voce vote.

BILLS AND RESOLUTIONS SIGNED

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

SB 19, SB 60, SB 63, SB 131, SB 152, SB 171, SB 209, SB 215, SB 231, SB 258, SB 262, SB 296, SB 307, SB 310, SB 405, SB 430, SB 446, SB 450, SB 521, SB 551, SB 557, SB 567, SB 616, SB 641, SB 674, SB 707, SB 735, SB 785, SB 805, SB 853, SB 862, SB 872, SB 926, SB 934, SB 953, SB 965, SB 974, SB 1020, SB 1102, SB 1105, SB 1116, SB 1204, SB 1217, SB 1254, SB 1277, SB 1290, SB 1302, SB 1321, SB 1346, SB 1378, SB 1382, SB 1419, SB 1442, SB 1532, SB 1591, SB 1624, SB 1626, SB 1669, SB 1685, SCR 40, SCR 42, HB 617, HB 855, HB 937, HB 1016, HB 1018, HB 1151, HB 1418, HB 1428, HB 1475, HB 1494, HB 1628, HB 1678, HB 1687, HB 1869, HB 1987, HB 2070, HB 2165, HB 2187, HB 2255, HB 2609, HB 2653, HB 2877, HB 2909, HB 3130, HB 3467, HB 3504, HB 3623.

COMMITTEE SUBSTITUTE HOUSE BILL 3544 ON SECOND READING

On motion of Senator Cain 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:

CSHB 3544, Relating to student loan repayment assistance for certain dentists.

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

RECORD OF VOTE

Senator Harris asked to be recorded as voting "Nay" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 3544 ON THIRD READING

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3544** be placed on its third reading and final passage.

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

Nays: Harris.

Absent-excused: Luna.

CSHB 3544 was read third time and was passed by a viva voce vote.

RECORD OF VOTE

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

HOUSE BILL 1248 ON SECOND READING

On motion of Senator Lucio 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:

HB 1248, Relating to the regulation of the practice of architecture, landscape architecture, and interior design; providing administrative penalties.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1248** by adding a new section to the bill on page 3, between lines 18 and 19, appropriately numbered and renumbering the subsequent sections accordingly:

SECTION ____ Section 5(d), Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The Board ~~[may not]~~ shall adopt rules to prevent a person regulated by the Board from submitting a competitive bid to, or soliciting a competitive bid on behalf of, a governmental entity that is prohibited by Subchapter A, Chapter 2254, Government Code, from making a selection or awarding a contract on the basis of competitive bids, and the Board may not otherwise adopt rules restricting competitive bidding or advertising by a person regulated by the Board except to prohibit false, misleading, or deceptive practices by the person. The Board may not include in its rules to prohibit false, misleading or deceptive practices by a person regulated by the Board a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the person's personal appearance or the use of the person's voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the person; or
- (4) restricts the person's advertisement under a trade name.

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

RECORD OF VOTE

Senator Nixon asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 1.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1248** as follows:

(1) In SECTION 1.09 of the bill, in proposed Section 7A(a), Article 249a, Vernon's Texas Civil Statutes (Senate Committee Printing, page 4, lines 3 and 4), strike "Section 12(c)" and substitute "Section 11A(b) or 12(c)".

(2) Between SECTIONS 1.11 and 1.12 of the bill (Senate Committee Printing, page 5, between lines 35 and 36), insert the following SECTION, appropriately numbered:

SECTION ____. Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), is amended by adding Section 11A to read as follows:

Sec. 11A. (a) The Board by rule shall adopt a system by which a registered architect may place the person's certificate of registration on inactive status. A registered architect must apply for inactive status, on a form prescribed by the Board, before the expiration date of the person's certificate of registration.

(b) A registered architect whose certificate of registration is on inactive status must pay a certificate of registration renewal fee of \$10 on a date and in a manner prescribed by Board rule.

(c) A registered architect whose certificate of registration is on inactive status may not perform any activity regulated under this Act.

(d) A registered architect whose certificate of registration is on inactive status and who wishes to return to active practice shall notify the Board in writing. The Board shall remove the registered architect's certificate of registration from inactive status on payment of an administrative fee and on compliance with educational or other requirements established by Board rules.

(3) Between SECTIONS 2.02 and 2.03 of the bill (Senate Committee Printing, page 7, between lines 37 and 38), insert the following SECTION, appropriately numbered:

SECTION ____. Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), is amended by adding Section 6A to read as follows:

Sec. 6A. INACTIVE STATUS. (a) The board by rule shall adopt a system by which a registered landscape architect may place the person's certificate of registration on inactive status. A registered landscape architect must apply for inactive status, on a form prescribed by the board, before the expiration date of the person's certificate of registration.

(b) A registered landscape architect whose certificate of registration is on inactive status is not required to pay certificate of registration renewal fees.

(c) A registered landscape architect whose certificate of registration is on inactive status may not perform any activity regulated under this Act.

(d) A registered landscape architect whose certificate of registration is on inactive status and who wishes to return to active practice shall notify the board in writing. The board shall remove the registered landscape architect's certificate of registration from inactive status on payment of an administrative fee and on compliance with educational or other requirements established by board rules.

(4) Between SECTIONS 3.03 and 3.04 of the bill (Senate Committee Printing, page 12, between lines 32 and 33), insert the following SECTION, appropriately numbered:

SECTION ____. Article 249e, Revised Statutes, is amended by adding Section 13A to read as follows:

Sec. 13A. INACTIVE STATUS. (a) The board by rule shall adopt a system by which a registered interior designer may place the person's certificate of registration on inactive status. A registered interior designer must apply for inactive status, on a form prescribed by the board, before the expiration date of the person's certificate of registration.

(b) A registered interior designer whose certificate of registration is on inactive status is not required to pay certificate of registration renewal fees.

(c) A registered interior designer whose certificate of registration is on inactive status may not perform any activity regulated under this Act.

(d) A registered interior designer whose certificate of registration is on inactive status and who wishes to return to active practice shall notify the board in writing. The board shall remove the registered interior designer's certificate of registration from inactive status on payment of an administrative fee and on compliance with educational or other requirements established by board rules.

(5) Renumber the SECTIONS of the bill and references to those SECTIONS accordingly.

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

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 1248** by striking the existing subsection (e) in Section 1.02 of the bill, (Committee printed version, page 2, lines 11-16), and substituting a new subsection (e) to read as follows:

(e) The Board shall ~~[may] require [recognize, prepare, or administer]~~ continuing education programs for architects, interior designers, and [or] landscape architects[-], and may include courses applicable to health, safety or welfare as a condition of registration renewal for architects, interior designers, and landscape architects. The Board may recognize the programs of nationally acknowledged organizations involved in providing, recording or approving post-graduate education. In addition, the Board may recognize any other sponsoring organization or individual whose presentations are approved by the Board as qualifying in design or construction health, safety, or welfare. The Board may include programs relating to barrier free design. Participation in the programs selected under this provision is mandatory [voluntary].

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

On motion of Senator Lucio 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.

RECORD OF VOTE

Senator Nixon asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1248 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1248** be placed on its third reading and final passage.

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

Nays: Nixon.

Absent-excused: Luna.

HB 1248 was read third time and was passed by a viva voce vote.

RECORD OF VOTE

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1161 ON SECOND READING**

On motion of Senator Ratliff 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:

CSHB 1161, Relating to the tobacco settlement permanent trust account.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1161** as follows:

1. On page 1, lines 14-15, between "403.1042," and "403.1043" insert "and", and after "403.1043" delete ", and 403.1044".
2. On page 1, line 17, between "403.1042" and "403.1043", replace the comma with "and", and after "403.1043", delete ", and 403.1044".
3. On page 2, line 7, delete "Subject to Section 403.1044," and capitalize "On".
4. Starting on page 3, line 51, through page 4, line 26, delete the entire Sec. 403.1044.

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

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1161** as follows:

(1) In SECTION 1.01, in added Section 403.1044(b), Government Code (senate committee printing, page 3, lines 64-66), strike "Except as provided by Subsection (e), a political subdivision that has received a distribution under Section 403.1041 shall use the distribution as necessary to reimburse" and substitute "A political subdivision that has received a distribution under Section 403.1041 shall use the distribution to reimburse, in accordance with Subsection (d),".

(2) In SECTION 1.01, in added Section 403.1044, Government Code (senate committee printing, page 4, lines 6-26), strike Subsections (c), (d), and (e) and substitute the following:

(c) The amount of the reimbursement required for a state hospital or clinic under this section shall be computed by multiplying the total amount of the distribution received by the political subdivision under Section 403.1041 by a fraction, the numerator of which is the amount of unreimbursed health care expenditures of the hospital or clinic described by Subsection (b) and the denominator of which is the total of:

(1) the amount of unreimbursed health care expenditures of the political subdivision as determined under Subchapter J, Chapter 12, Health and Safety Code; and

(2) the amount of unreimbursed health care expenditures of the hospital or clinic described by Subsection (b).

(d) A state hospital or clinic that has made unreimbursed health care expenditures described by Subsection (b) shall submit information relating to those expenditures in the form and at the time required by the Texas Department of Health. At the time the department makes the certification to the comptroller under Section 12.132, Health and Safety Code, the department shall also certify to the comptroller, the hospital or clinic, and the political subdivision, the amount of the reimbursement required under this section.

(e) For a year following a year in which the Texas Department of Health has certified that a political subdivision is required to make a reimbursement under this section, the comptroller may not make an annual distribution to the political subdivision until the state hospital or clinic notifies the comptroller that the amount certified under this section for the preceding year has been paid or that the debt has been settled and all claims against the political subdivision for the debt have been released.

(f) For purposes of computing the amount of reimbursement required to be paid to the South Texas Hospital under Subsection (c), expenditures related to the care and treatment of patients with tuberculosis may not be included as unreimbursed health care expenditures.

The amendment was read.

On motion of Senator Nixon and by unanimous consent, Floor Amendment No. 2 was withdrawn.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 1161** as follows:

(1) In SECTION 1.01, in added Section 403.1042(b), Government Code, (senate committee printing, page 2, line 54), strike "composed of 11 members" and substitute "composed of 12 members".

(2) In SECTION 1.01, in added Section 403.1042(b)(7), Government Code, (senate committee printing, page 3, line 9), strike "; and" and substitute ":",

(3) In SECTION 1.01, in added Section 403.1042(b)(8), Government Code, (senate committee printing, page 3, line 11), between "Association" and the period, insert the following:

; and

(9) one member nominated by the commissioners court of the county that, in the year preceding the appointment, had the largest expenditure for indigent health care services required to be provided under Chapter 61, Health and Safety Code, as determined by the Texas Department of Health

(4) In SECTION 1.02(a) of the bill, strike "composed of the following 11 members" (senate committee printing, page 4, line 30), and substitute "composed of the following 12 members".

(5) In SECTION 1.02(a)(10) of the bill (senate committee printing, page 4, line 57), strike "; and" and substitute ":",

(6) In SECTION 1.02(a)(11) of the bill, (senate committee printing, page 4, line 60), between "2003" and the period, insert the following:

; and

(12) one member appointed by the commissioners court of the county that, in the year preceding effective date of this Act, had the largest expenditure for indigent

health care services required to be provided under Chapter 61, Health and Safety Code, as determined by the Texas Department of Health for a term expiring August 31, 2001

(7) In SECTION 1.02 of the bill, (senate committee printing, page 5, between lines 23 and 24), insert new Subsection (j) to read as follows:

(j) On the expiration of the term of the member appointed under Subsection (a)(12) of this Section, the advisory committee shall fill the vacancy under Section 403.1042(b)(9), Government Code, as added by this Act.

(8) In SECTION 2.01, in added Section 12.137(b), Health and Safety Code, (senate committee printing, page 6, line 44), strike "composed of 11 members" and substitute "composed of 12 members".

(9) In SECTION 2.01, in added Section 12.137(b)(7), Health and Safety Code, (senate committee printing, page 6, line 68), strike "; and" and substitute ";".

(10) In SECTION 2.01, in added Section 12.137(b)(8), Government Code, (senate committee printing, page 7, line 1), between "Association" and the period, insert the following:

; and

(9) one member nominated by the commissioners court of the county that, in the year preceding the appointment, had the largest expenditure for indigent health care services required to be provided under Chapter 61, Health and Safety Code, as determined by the Texas Department of Health

(11) In SECTION 2.02(a) of the bill, strike "composed of the following 11 members" (senate committee printing, page 7, line 44), and substitute "composed of the following 12 members".

(12) In SECTION 2.02(a)(10) of the bill (senate committee printing, page 8, line 2), strike "; and" and substitute ";

(13) In SECTION 2.02(a)(11) of the bill, (senate committee printing, page 8, line 5), between "2003" and the period, insert the following:
; and

(12) one member appointed by the commissioners court of the county that, in the year preceding effective date of this Act, had the largest expenditure for indigent health care services required to be provided under Chapter 61, Health and Safety Code, as determined by the Texas Department of Health, for a term expiring August 31, 2001

(14) In SECTION 2.02 of the bill, (senate committee printing, page 8, between lines 37 and 38), insert new Subsection (j) to read as follows:

(j) On the expiration of the term of the member appointed under Subsection (a)(12) of this section, the advisory committee shall fill the vacancy under Section 12.137(b)(9), Health and Safety Code, as added by this Act.

The amendment was read.

On motion of Senator Lucio and by unanimous consent, Floor Amendment No. 3 was withdrawn.

On motion of Senator Ratliff 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.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1161 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1161** be placed on its third reading and final passage.

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

Absent-excused: Luna.

CSHB 1161 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1223 ON SECOND READING

On motion of Senator Armbrister 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:

HB 1223, Relating to a historical artifacts program under the Texas Historical Commission.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1223**, adding an appropriately numbered SECTION to read as follows:

"SECTION _____. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

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

On motion of Senator Armbrister 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 1223 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1223** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 1223 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1997 ON SECOND READING

On motion of Senator Madla 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:

HB 1997, Relating to installation, repair, or removal of certain vent hoods.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1997** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 2(10), Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended to read as follows:

(10) "Mechanical integrity" means physical installation of products, systems, or equipment in accordance with their intended purpose and according to:

(A) standards at least as strict as the standards set forth in the Uniform Mechanical Code, the International Mechanical Code [published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, or their successor organizations], or the Standard Mechanical Code [published by the Southern Building Code Congress International, Inc., or its successor organization];

(B) all other applicable codes; and

(C) the manufacturer's specifications.

SECTION 2. Section 3(a), Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The commissioner shall adopt rules for the practice of air conditioning and refrigeration contracting consistent with this Act. The standards prescribed by rule must be at least as strict as the standards set forth in the Uniform Mechanical Code published [~~jointly~~] by the International Conference of Building Officials or [and] the International Association of Plumbing and Mechanical Officials, [or] the Standard Mechanical Code published by the Southern Building Code Congress International, Inc., or the International Mechanical Code published by the International Code Council [as those codes exist at the time the rules are adopted]. The commissioner shall enforce this Act and may adopt rules relating to enforcement requirements.

SECTION 3. Section 6, Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended by adding Subsection (h) to read as follows:

(h) This Act does not apply to a person who installs, repairs, or removes a vent hood of the type commonly used in residential and commercial kitchens if the person substantially complies with the rules for the practice of air conditioning and refrigeration contracting under this Act and plumbing standards adopted by the Texas State Board of Plumbing Examiners under The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), as those rules and standards apply to the installation, repair, and removal of vent hoods.

SECTION 4. (a) Except as provided by this section, this Act takes effect September 1, 1999.

(b) Section 6(h), Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), as added by this Act, takes effect immediately and applies only to the installation, repair, or removal of a vent hood that occurs on or after the effective date of this subsection. Installations, repairs, and removals of vent hoods that occur before that date are governed by the law in effect on

the day the installation, repair, or removal occurred, and that law is continued in effect for that purpose.

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

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

On motion of Senator Madla 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 1997 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1997** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 1997 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE JOINT RESOLUTION 4 ON SECOND READING

On motion of Senator Wentworth 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:

HJR 4, Proposing a constitutional amendment to authorize the exemption of property owned by institutions of public charity, as defined by general law, from ad valorem taxation.

The resolution was read second time.

Senator Wentworth offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **HJR 4** as follows:

(1) In SECTION 1 of the joint resolution, amended Section 2(a), Article VIII, Texas Constitution (on page 1, line 39, Senate Committee Printing), strike "institutions of [~~purely~~] public charity as defined by general law", and substitute "institutions engaged primarily in public charitable functions, which may conduct auxiliary activities to support those charitable functions [~~of purely public charity~~]".

(2) In SECTION 3 of the joint resolution, in the temporary provision proposed to be added to Article VIII, Texas Constitution (on page 2, lines 3 and 4, Senate Committee Printing), strike "institutions of public charity as defined by the general law" and substitute "institutions engaged primarily in public charitable functions".

(3) In SECTION 4 of the joint resolution, in the language to be printed in the ballot proposition (on page 2, lines 11 and 12, Senate Committee Printing),

strike "institutions of public charity, as defined by the legislature", and substitute "institutions engaged primarily in public charitable functions".

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

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

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

HOUSE JOINT RESOLUTION 4 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 4** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HJR 4 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1983 ON SECOND READING

On motion of Senator Madla 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:

CSHB 1983, Relating to the functions of the Advisory Commission on State Emergency Communications and emergency communication districts and to the continuation of the Advisory Commission on State Emergency Communications.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1983** (Senate Committee Printing) by adding the following appropriately numbered SECTIONS and renumbering the current SECTIONS of the bill accordingly:

SECTION _____. (a) Chapter 226, Transportation Code, is amended to read as follows:

CHAPTER 226. RURAL HIGHWAY EMERGENCY COMMUNICATIONS [CALL BOX] SYSTEM

Sec. 226.001. DEFINITIONS [DEFINITION]. In this chapter:

(1) "Communications commission" means the Commission on State Emergency Communications.

(2) "Emergency[-,"emergency] response services" means:
(A) fire fighting [(+) fire-fighting], law enforcement, or emergency medical services that are provided by a public agency; or
(B) [(2)] motorist assistance services.

(3) "Rural highway emergency communications system" means a system of emergency communications devices installed along the highways that are part of the designated state highway system.

Sec. 226.002. APPLICABILITY; LIMITATION ON EXPENDITURES. This chapter does not[-

~~[(†)]~~ apply to a segment of a highway that the commission has designated as a farm-to-market or ranch-to-market road~~[-or~~

~~[(2) authorize the department to make an expenditure of money for the implementation, operation, or maintenance of the emergency telephone call box system out of the state highway fund].~~

Sec. 226.003. RURAL HIGHWAY EMERGENCY COMMUNICATIONS SYSTEM INSTALLATION, OPERATION, AND MAINTENANCE; COMMUNICATIONS COMMISSION OVERSIGHT ~~[OF CALL BOX SYSTEM]~~.

(a) The communications commission shall manage the installation and implementation of a rural highway emergency communications system and coordinate the ~~[The department may provide for the installment;]~~ operation~~[-]~~ and maintenance of the [a] system through emergency communications districts and regional planning commissions. The communications commission shall implement the system in each area of the state that has cellular telephone service coverage ~~[of emergency telephone call boxes along those highways in this state that are part of the designated state highway system].~~

(b) The system must ~~[may]~~:

(1) be designed to enable users of ~~[those]~~ highways that are part of the designated state highway system to request emergency and nonemergency response services;

(2) include:

(A) wired or wireless telecommunications services; and

(B) one or more motorist assistance answering centers; and

(3) be capable of performing compatible Intelligent Transportation System (ITS) functions.

(c) To minimize call processing loads in public safety answering points established under Chapter 771 or 772, Health and Safety Code, the communications commission ~~[department]~~ may contract with a private entity to perform the functions of a motorist assistance answering center under Subsection (b)(2)(B).

(d) The communications commission shall provide technical and management oversight to support:

(1) the proper routing to an emergency response services provider of a call made from a rural highway emergency communications system telephone; and

(2) emergency responses to a call described by Subdivision (1).

(e) The communications commission may establish system performance standards. The standards must be applicable uniformly throughout the state.

Sec. 226.004. FUNDING. The communications commission shall ~~[department may]~~ implement a rural highway emergency communications ~~[call box]~~ system under this chapter if a public or private entity provides all direct or indirect costs necessary for the installation ~~[installment]~~, operation, and maintenance of the system.

Sec. 226.005. DESIGN AND LOCATION OF EMERGENCY TELEPHONES ~~[AND DISTANCE BETWEEN CALL BOXES]~~. The communications commission and the department jointly shall determine the design and the location, or criteria for the location, of emergency telephones in the rural highway emergency communications ~~[location of the emergency call boxes shall be determined by the department in accordance with the design specifications of the]~~ system.

Sec. 226.006. CONTRACTS FOR IMPLEMENTATION AND INSTALLATION. ~~[(†)]~~ The communications commission shall award one or more

contracts to install and implement the rural highway emergency communications system. Implementation of the system may be by [department may award a contract for the installation, maintenance, or operation of a call box system in the manner provided by Chapter 223.

~~[(b) The department may solicit proposals for and enter into] one or more lease-purchase agreements [under this chapter].~~

Sec. 226.007. INTERGOVERNMENTAL COOPERATION. ~~The communications commission, each agency [Advisory Commission on State Emergency Communications, agencies] of this state, and each county and municipality in this state shall cooperate in the design, establishment, operation, and maintenance of the rural highway emergency communications [telephone call box] system.~~

Sec. 226.009. REPORTING AND RECOMMENDATIONS. (a) The communications commission annually shall prepare a report on the activities under this chapter for each fiscal year. The report may include the communications commission's recommendations for legislative action.

(b) Not later than November 1 of each year, the communications commission shall file the report regarding the preceding fiscal year with the:

- (1) lieutenant governor;
- (2) speaker of the house of representatives; and
- (3) Legislative Budget Board.

(b) All money appropriated by the 76th Legislature for the purposes of Chapter 226, Transportation Code, is transferred from the Texas Department of Transportation to the Commission on State Emergency Communications. The Legislative Budget Board shall certify to the comptroller the amount of money appropriated for that purpose.

(c) The Commission on State Emergency Communications shall award one or more contracts to implement the rural highway emergency communications system before June 1, 2000. Installation of the system must begin under contract before September 1, 2000.

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

RECORD OF VOTE

Senator Ratliff asked to be recorded as "Present-not voting" on the adoption of Floor Amendment No. 1.

(Senator Moncrief in Chair)

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1983** by inserting a new Section 34 on page 14, between lines 22 and 23, to read as follows and renumber the remaining sections accordingly:

SECTION 34. Section 772.402, Health and Safety Code, is amended to read as follows:

Sec. 772.402. APPLICATION OF SUBCHAPTER. (a) This subchapter applies only to a county having a population of more than 500,000 ~~1.5 million~~ in which a communication district has not been created under Subchapter B or C.

(b) A communication district created under this subchapter after September 1, 1999 may only be created by a county if:

(1) the county coordinates its 9-1-1 service with all home rule cities within the boundaries of the county;

(2) at least one of the home rule cities within the county has a population greater than 400,000; and

(3) the home rule cities are authorized under Texas law to provide their own 9-1-1 service separate from the state system administered by the commission.

The amendment was read.

On motion of Senator Wentworth and by unanimous consent, Floor Amendment No. 2 was temporarily withdrawn.

(President in Chair)

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 1983** (Senate committee report) as follows:

(1) In Section 19 of the bill, at the end of amended Subsection (b), Section 771.058, Health and Safety Code (page 7, line 60), insert:

For purposes of this section, an emergency communication district that, before January 1, 1999, repealed or withdrew the resolution, ordinance, or order by which the district chose to participate in the plan has withdrawn from participation in the plan and has the status, rights, and responsibilities under this chapter of a nonparticipating emergency communication district.

(2) Between Sections 37 and 38 of the bill (page 15, between lines 21 and 22), insert a new Section 38 to read as follows:

SECTION 38. As soon as is practicable, the Commission on State Emergency Communications shall amend the regional plan applicable to each region in which an emergency communication district has withdrawn in the manner provided by Section 771.058(b), Health and Safety Code, as amended by this Act, to accommodate the district's withdrawal from participation in the plans.

(3) Renumber present Sections 38 and 39 of the bill as Sections 39 and 40, respectively.

The amendment was read.

On motion of Senator Truan and by unanimous consent, Floor Amendment No. 3 was temporarily withdrawn.

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 1983** (Senate Committee Printing) as follows:

(1) Between Sections 33 and 34 of the bill (page 14, between lines 22 and 23), insert:

SECTION 34. Section 56.021, Utilities Code, as amended by Section 18.08, S.B. No. 1368, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

Sec. 56.021. UNIVERSAL SERVICE FUND ESTABLISHED. The commission shall adopt and enforce rules requiring local exchange companies to establish a universal service fund to:

(1) assist local exchange companies in providing basic local telecommunications service at reasonable rates in high cost rural areas;

(2) reimburse local exchange companies for revenue lost by providing tel-assistance service under Subchapter C;

(3) reimburse the telecommunications carrier that provides the statewide telecommunications relay access service under Subchapter D;

(4) finance the specialized telecommunications device assistance program established under Subchapter E; ~~and~~

(5) reimburse the department, the Texas Commission for the Deaf and Hard of Hearing, and the commission for costs incurred in implementing this chapter and Chapter 57; and

(6) reimburse the Texas Department of Transportation for direct and indirect costs incurred in implementing a rural highway emergency communications system authorized by Chapter 226, Transportation Code, on the condition that:

(A) the reimbursement does not exceed \$7 million annually; and

(B) the department give expenditure priority to rural and underserved areas.

SECTION 35. Section 56.023(a), Utilities Code, is amended to read as follows:

(a) The commission shall:

(1) in a manner that assures reasonable rates for basic local telecommunications service, adopt eligibility criteria and review procedures, including a method for administrative review, the commission finds necessary to fund the universal service fund and make distributions from that fund;

(2) determine which local exchange companies meet the eligibility criteria;

(3) determine the amount of and approve a procedure for reimbursement to local exchange companies of revenue lost in providing tel-assistance service under Subchapter C;

(4) establish and collect fees from the universal service fund necessary to recover the costs the department and the commission incur in administering this chapter and Chapter 57; ~~and~~

(5) approve procedures for the collection and disbursal of the revenue of the universal service fund; and

(6) coordinate with the Department of Transportation on procedures for reimbursing the costs incurred for the implementation of a rural highway emergency communications system authorized by Chapter 226, Transportation Code.

(2) Renumber Sections 34-39 of the bill accordingly.

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

RECORD OF VOTE

Senator Ratliff asked to be recorded as "Present-not voting" on the adoption of Floor Amendment No. 4.

On motion of Senator Madla and by unanimous consent, further consideration of **CSHB 1983** was postponed to a time certain of 2:00 p.m. today.

Question—Shall **CSHB 1983** as amended be passed to third reading?

HOUSE BILL 1939 ON SECOND READING

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

HB 1939, Relating to requirements and procedures concerning driver's licenses or personal identification certificates for persons subject to sex offender registration.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1939** as follows:

(1) In SECTION 6 of the bill, in proposed Section 521.103(a)(2), Transportation Code (Senate Committee Printing, page 3, line 40), strike "\$5" and substitute "\$20".

(2) In SECTION 7 of the bill, in proposed Section 521.272(a)(2), Transportation Code (Senate Committee Printing, page 3, line 58), strike "\$5" and substitute "\$20".

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

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1939**, adding an appropriately numbered SECTION to read as follows:

"SECTION _____. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

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

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

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

HOUSE BILL 1939 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1939** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 1939 was read third time and was passed by a viva voce vote.

HOUSE BILL 1916 ON SECOND READING

On motion of Senator Lucio 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:

HB 1916, Relating to funding certain job training expenditures through taxes collected by certain industrial development corporations.

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

HOUSE BILL 1916 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1916** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 1916 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 571 ON SECOND READING

On motion of Senator Nelson 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:

HB 571, Relating to information collected and used in connection with a driver's license or identification certificate; providing a penalty.

The bill was read second time.

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 571** by striking subsections (b) and (c) of Section 1 of the bill (lines 19-23).

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

On motion of Senator Nelson 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 571 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 571** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 571 was read third time and was passed by a viva voce vote.

HOUSE BILL 1187 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:

HB 1187, Relating to filing a petition that initiates a condemnation proceeding.

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

RECORD OF VOTE

Senator Zaffirini asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1187 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1187** be placed on its third reading and final passage.

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

Nays: Zaffirini.

Absent-excused: Luna.

HB 1187 was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 707 ON SECOND READING

On motion of Senator Cain 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:

HB 707, Relating to dismissal of an inspection certificate violation.

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

HOUSE BILL 707 ON THIRD READING

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 707** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 707 was read third time and was passed by a viva voce vote.

(Senator Ratliff in Chair)

HOUSE BILL 731 ON SECOND READING

On motion of Senator Ellis 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:

HB 731, Relating to municipal courts of record.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 731** as follows:

(1) In SECTION 1 of the bill, in Section 30.00008, Government Code (Senate Committee Printing, page 3, line 45), strike "appoint" and substitute "or charter provide for the appointment of [appoint]".

(2) In SECTION 1 of the bill, in added Section 30.000085, Government Code (Senate Committee Printing, page 4, lines 3-4), strike "members of the governing body in the charter or ordinances of the municipality" and substitute "judges in the charter of the municipality or, if the charter does not provide for the removal of judges, as provided by Section 1-a, Article V, Texas Constitution, or by the procedure provided for the removal of mayors and aldermen in a general-law municipality in Section 21.002, Local Government Code".

(3) In SECTION 1 of the bill, in added Section 30.000126, Government Code (Senate Committee Printing, page 5, lines 32-33), strike "Article 27.14, Code of Criminal Procedure, and".

(4) In SECTION 1 of the bill, in added Section 30.000126, Government Code (Senate Committee Printing, page 5, line 33), strike "Chapter 45" and substitute "Chapters 27 and 45".

(5) In SECTION 13 of the bill, between the first and second sentences of Section 30.00145, Government Code (Senate Committee Printing, page 11, line 7), insert "The state has the right of appeal as provided by Article 44.01, Code of Criminal Procedure."

(6) In SECTION 20 of the bill, in the introductory language of the SECTION (Senate Committee Printing, page 11, line 65), strike "Subsection (k)" and substitute "Subsections (k) and (l)".

(7) In SECTION 20 of the bill, after added Section 30.00224(k), Government Code (Senate Committee Printing, page 12, between lines 9 and 10), insert the following:

(l) In addition to the duties imposed under Sections 30.00007(b)(1)-(4), the presiding judge shall promulgate work rules for the administration of the municipal courts.

(8) Strike SECTION 21 of the bill (Senate Committee Printing, page 12, lines 10-12) and substitute the following:

SECTION 21. Section 30.00225, Government Code, is amended by adding Subsection (c) to read as follows:

(c) Sections 30.00009(c) and (d) do not apply to this subchapter.

(9) In SECTION 64 of the bill, in added Section 30.00674(i), Government Code (Senate Committee Printing, page 17, line 53), strike "Section 30.00007(b)(5) does" and substitute "Sections 30.00007(b)(5) and 30.000085 do".

(10) In SECTION 83 of the bill, in added Section 30.00894(g), Government Code (Senate Committee Printing, page 19, line 68), strike "Section 30.00007(b)(5) does" and substitute "Sections 30.00007(b)(5) and 30.00008(b) do".

(11) In SECTION 84 of the bill (Senate Committee Printing, page 20, lines 3-14), strike amended Section 30.00895, Government Code, and substitute the following:

Sec. 30.00895. CLERK. (a) ~~The city manager[], with the consent of the governing body of the city;~~] shall appoint a clerk of the municipal courts of record. The clerk or the clerk's deputies shall keep the records of the municipal courts of record, issue process, and generally perform the duties for the courts that a clerk of a county court exercising criminal jurisdiction is required by law to perform for that court. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(a), (c), and (d) do not apply to this subchapter.

(12) Strike SECTION 114 of the bill (Senate Committee Printing, page 24, lines 40-49) and substitute the following:

SECTION 114. Section 30.01216(a), Government Code, is amended to read as follows:

(a) ~~[A municipal court of record is presided over by a municipal judge. The municipal judge must be a licensed attorney in good standing in this state. The judge must be a citizen of the United States and resident of this state but need not be a resident of the city.]~~ The municipal judge shall devote as much [full] time as necessary to perform the duties of the office ~~[as necessary]~~.

(13) Strike SECTION 115 of the bill (Senate Committee Printing, page 24, lines 50-52).

(14) Strike SECTION 132 of the bill (Senate Committee Printing, page 26, lines 67-69) and substitute the following:

SECTION 132. Section 30.01406, Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) A municipal judge is entitled to receive compensation or a salary and other benefits set by the governing body of the city. The judge's compensation or salary may not be diminished during the term of office. The compensation or salary may not be based directly or indirectly on fines, fees, or other costs that the municipal judge is required by law to collect during a term of office.

(d) Section 30.00007 does not apply to this subchapter.

(15) In SECTION 134 of the bill, in the introductory language of the SECTION (Senate Committee Printing, page 27, line 9), between "by" and "adding", insert "amending Subsection (e) and".

(16) In SECTION 134 of the bill, between the introductory language and added Section 30.01446(f), Government Code (Senate Committee Printing, page 27, between lines 9 and 10), insert the following:

(e) A municipal judge is entitled to compensation or a salary and other benefits set by the governing body of the city. The governing body may not base the compensation or salary directly or indirectly on fines, fees, or costs collected by the court.

(17) In SECTION 137 of the bill, between added Sections 30.01751 and 30.01752, Government Code (Senate Committee Printing, page 29, between lines 34 and 35), insert the following:

Sec. 30.017515. JUDGE. (a) A municipal court of record is presided over by a municipal judge.

(b) A municipal judge is appointed by the mayor with the concurrence of the governing body of the municipality and serves at the pleasure of the governing body.

(c) A municipal judge shall:

(1) devote as much time to the office as necessary; and

(2) take judicial notice of state law, municipal ordinances, and the corporate limits of the municipality.

(d) If there is more than one municipal judge appointed under Subsection (b), the mayor shall appoint one of the judges as the presiding municipal judge.

(e) A municipal judge is entitled to a salary from the municipality, the amount of which is determined by the governing body of the municipality. The amount of a municipal judge's salary may not be based directly or indirectly on fines, fees, or costs collected by the court.

(18) In SECTION 138 of the bill, in Subdivision (1) (Senate Committee Printing, page 29, line 44), strike "and 30.00047-30.00062" and substitute "30.00047, 30.00048, and 30.00050-30.00062".

(19) In SECTION 138 of the bill, in Subdivision (3) (Senate Committee Printing, page 29, lines 47-48), strike "(h), and (i)" and substitute "(h)-(k)".

(20) In SECTION 138 of the bill, in Subdivision (5) (Senate Committee Printing, page 29, line 52), strike "and 30.00227-30.00242" and substitute "30.00227, 30.00228, 30.00229(a)-(d), and 30.00230-30.00242".

(21) In SECTION 138 of the bill, in Subdivision (17) (Senate Committee Printing, page 30, line 6), strike "30.00674(a)-(h)" and substitute "30.00674(a)-(f) and (h)".

(22) In SECTION 138 of the bill, in Subdivision (36) (Senate Committee Printing, page 30, line 44), strike "30.01406(a)-(c)" and substitute "30.01406(a) and (b)".

(23) In SECTION 138 of the bill, in Subdivision (37) (Senate Committee Printing, page 30, line 46), strike "30.01446(a)-(e)" and substitute "30.01446(a)-(d)".

(24) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. Section 30.01148, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Section 30.00009(c) does not apply to this subchapter.

SECTION _____. Section 30.01408, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Section 30.00009(c) does not apply to this subchapter.

(25) Renumber the remaining SECTIONS of the bill accordingly.

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

On motion of Senator Ellis 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 731 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 731** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 731 was read third time and was passed by a viva voce vote.

(President in Chair)

HOUSE BILL 3554 ON SECOND READING

On motion of Senator Bernsen 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:

HB 3554, Relating to correcting the statutory description of the boundaries of the Port Arthur Navigation District.

The bill was read second time.

Senator Bernsen offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3554** as follows:

1. In Bill Section 1, on page 1, line 14, before the word "There" insert "(a)".
2. In Bill Section 1, on page 1, line 42, strike the word "are" and insert "include two tracts of land located in Jefferson County, Texas, described".
3. In Bill Section 1, on page 1, line 43, before the word "BEGINNING" insert the words "(1) FIRST TRACT".
4. In Bill Section 1, on page 2, line 28, add a new subsections (a)(2) and (b) to read as follows:

(2) SECOND TRACT BEGINNING at a point in the geographic middle of Sabine Lake due east of the junction of the center line of the Intracoastal Canal and the center line of the Sabine-Neches Ship Canal;

THENCE southward and westward along the center line of Sabine Lake to its junction with the northeast corner of the Sabine Pass Port Authority boundary as it exists as of January 1, 1999;

THENCE due west along the north boundary line of the Sabine Pass Port Authority to its junction with the western bank of the Sabine-Neches Ship Canal;

THENCE northward and westward along the meanders of the western bank of the Sabine-Neches Ship Canal to its junction with the center line of the Intracoastal Canal.

(b) Subsection (a)(2) shall not apply to land acquired from the state by navigation districts under Article 8225, Revised Civil Statutes of Texas 1925, recodified in Sections 61.116 and 61.117 of the Water Code, or under any general or special act. Subsection (a)(2) shall have no effect on Section 61.116 or 61.117 of the Water Code. For land acquired from the state as described in this subsection, the State of Texas expressly reserves for the benefit of the Permanent School fund all oil, gas and other minerals in, on or under the property, together with the unrestricted right of ingress and egress to explore for and develop minerals reserved therein.

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

On motion of Senator Bernsen 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 3554 ON THIRD READING

Senator Bernsen moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3554** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 3554 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2382 ON SECOND READING

On motion of Senator Lindsay 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:

HB 2382, Relating to the evaluation and approval of continuing education for physical therapists.

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

HOUSE BILL 2382 ON THIRD READING

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2382** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 2382 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 749 ON SECOND READING

On motion of Senator Nelson 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:

CSHB 749, Relating to the sale of certain items at a flea market; providing a penalty.

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

COMMITTEE SUBSTITUTE HOUSE BILL 749 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 749** be placed on its third reading and final passage.

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

Absent-excused: Luna.

CSHB 749 was read third time and was passed by a viva voce vote.

HOUSE BILL 3456 ON SECOND READING

On motion of Senator Carona 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:

HB 3456, Relating to the power of a bondsman to execute bail bonds.

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

HOUSE BILL 3456 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3456** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 3456 was read third time and was passed by a viva voce vote.

HOUSE BILL 2961 ON SECOND READING

On motion of Senator Duncan 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:

HB 2961, Relating to the board of hospital managers of the Lubbock County Hospital District.

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

HOUSE BILL 2961 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2961** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 2961 was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1983 ON SECOND READING

The President laid before the Senate as postponed business **CSHB 1983**. The bill was amended on second reading and postponed to a time certain of 2:00 p.m. today.

CSHB 1983, Relating to the functions of the Advisory Commission on State Emergency Communications and emergency communication districts and to the continuation of the Advisory Commission on State Emergency Communications.

Question—Shall **CSHB 1983** as amended be passed to third reading?

On motion of Senator Madla and by unanimous consent, further consideration of **CSHB 1983** was postponed to a time certain of 10:00 a.m. tomorrow.

Question—Shall **CSHB 1983** as amended be passed to third reading?

HOUSE BILL 3521 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 third reading:

HB 3521, Relating to motor vehicle title services; providing a criminal penalty.

The bill was read second time.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3521** as follows:

(1) Immediately before SECTION 1 of the bill (Senate committee report, page 1, between lines 10 and 11) insert a new SECTION 1 of the bill to read as follows:

SECTION 1. This Act may be known as the Troy Blando Motor Vehicle Theft Prevention Act of 1999.

(2) Renumber subsequent sections of the bill appropriately.

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

On motion of Senator Whitmire 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 3521 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3521** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 3521 was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1324 ON SECOND READING

On motion of Senator Carona 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:

CSHB 1324, Relating to termination of an employee who performs jury duty; providing a criminal penalty.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1324** as follows:

(1) Strike the recital to SECTION 1 of the bill (page 1, lines 13-14, Senate committee report printing) and substitute the following:

SECTION 1. Section 122.002, Civil Practice and Remedies Code, is amended by amending Subsection (a) and by adding Subsection (c) to read as follows:

(2) In SECTION 1 of the bill, in amended Section 122.002, Civil Practice and Remedies Code, insert a new Subsection (c) to that section (page 1, between lines 20 and 21, Senate committee report printing), to read as follows:

(c) An action for damages brought by a person under Subsection (a) must be brought not later than the second anniversary of the date on which the person served as a juror.

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

On motion of Senator Carona 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.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1324 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1324** be placed on its third reading and final passage.

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

Absent-excused: Luna.

CSHB 1324 was read third time and was passed by a viva voce vote.

HOUSE BILL 2825 ON SECOND READING

On motion of Senator Bernsen 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:

HB 2825, Relating to the definitions of various types of weapons for the purposes of criminal prosecutions and to a defense to prosecution for certain weapon offenses.

The bill was read second time.

Senator Bernsen offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2825** by adding a new section ____, and renumbering the following sections accordingly.

SECTION _____. Section 46.15(b), Penal Code, as amended by Chapters 1221 and 1261, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

(b) It is an exception to the application of Section 46.02 that the does not apply to a person who:

(1) is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 431.001, Government Code, or as a guard employed by a penal institution;

(2) is on the person's own premises or premises under the person's control unless the person is an employee or agent of the owner of the premises and the person's primary responsibility is to act in the capacity of a security guard to protect persons or property, in which event the person must comply with Subdivision (5);

(3) is traveling;

(4) is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or is en route between the premises and the actor's residence, if the weapon is a type commonly used in the activity;

(5) holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies, if:

(A) the person is engaged in the performance of the person's duties as a security officer or traveling to and from the person's place of assignment;

(B) the person is wearing a distinctive uniform; and

(C) the weapon is in plain view;

(6) is carrying a concealed handgun and a valid license issued under Subchapter H, Chapter 411, Government Code Article 4413(29cc), Revised Statutes,

to carry a concealed handgun of the same category as the handgun the person is carrying;

(7) holds a security officer commission and a personal protection authorization issued by the Texas Board of Private Investigators and Private Security Agencies and who is providing personal protection under the Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes); or

(8) holds an alcoholic beverage permit or license or is an employee of a holder of an alcoholic beverage permit or license if the person is supervising the operation of the permitted or licensed premises.

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

On motion of Senator Bernsen 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 2825 ON THIRD READING

Senator Bernsen moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2825** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 2825 was read third time and was passed by a viva voce vote.

HOUSE BILL 1852 ON SECOND READING

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

HB 1852, Relating to the administration of and other matters relating to decedents' estates.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1852** in Section 9 of the bill (Senate Committee Printing), as follows:

- (1) On page 4, line 50, delete "or".
- (2) On page 4, line 53, after "met" insert ", or".
- (3) On page 4, after line 53, insert "(7) a reverse mortgage."

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

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1852** Senate Committee Printing, to delete all Section 10 of the bill, Sec. 378B(a), Texas Probate Code, and renumber accordingly.

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

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

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

HOUSE BILL 1852 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1852** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 1852 was read third time and was passed by a viva voce vote.

HOUSE BILL 2022 ON SECOND READING

On motion of Senator Lucio 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:

HB 2022, Relating to the appointment of a small business advocate to head the Office of Small Business Assistance.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2022** as follows:

- (1) On page 1, line 15, strike "appointed" and insert "designated".
- (2) On page 1, line 18, delete "The small business advocate serves at the will of the governor."

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

On motion of Senator Lucio 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 2022 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2022** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 2022 was read third time and was passed by a viva voce vote.

HOUSE BILL 3173 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:

HB 3173, Relating to the duty of an officer to deposit certain money in the county treasury.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3173** by striking all below the enacting clause and substituting the following:

SECTION 1. Article 103.004, Code of Criminal Procedure, is amended to read as follows:

Art. 103.004. DISPOSITION OF COLLECTED MONEY. (a) Except as provided by Subsections (b) and (c), an [An] officer who collects recognizances, bail bonds, fines, forfeitures, judgments, jury fees, and other obligations recovered in the name of the state under any provision of this title shall deposit the money in the county treasury not later than the next regular business day after the date that the money is collected. If it is not possible for the officer to deposit the money in the county treasury by that date, the officer shall deposit the money in the county treasury as soon as possible, but not later than the third regular business day after the date that the money is collected [immediately pay the money to the county treasurer of the county for which the money was collected].

(b) The commissioners court of a county may authorize an officer who is required to deposit money under Subsection (a) to deposit the money in the county treasury not later than the seventh regular business day after the date that the money is collected.

(c) The commissioners court of a county with a population of less than 50,000 may authorize an officer who is required to deposit money under Subsection (a) to deposit the money in the county treasury not later than the 30th day after the date that the money is collected.

(d) The custodian of the county treasury shall deposit money received from fees imposed under Article 102.012 [of this code] in the special fund of the county treasury for the community supervision and corrections department serving the county.

SECTION 2. This Act takes effect September 1, 1999, and applies to obligations collected on or after that date. All obligations recovered before September 1, 1999, are governed by the law in effect on the date the obligations are collected.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted 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 3173 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3173** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 3173 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 618 ON SECOND READING**

On motion of Senator Bernsen 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:

CSHB 618, Relating to parental notification of the employment of an inappropriately certified or uncertified teacher.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 618 ON THIRD READING**

Senator Bernsen moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 618** be placed on its third reading and final passage.

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

Absent-excused: Luna.

CSHB 618 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 3189 ON SECOND READING

On motion of Senator Jackson 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:

HB 3189, Relating to the sale, servicing, installation, or monitoring of fire alarms or fire detection devices.

The bill was read second time.

(Senator Truan in Chair)

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3189** by amending SECTION 2, Section 7, Article 5.43-2, Insurance Code, by striking subsection (b) (Committee printing, page 2 at line 61 through page 3 at line 1) and replacing it with a new subsections (b), (c), (d) and (e) to read as follows:

(b) Except as provided by subsection (c), a political subdivision may not offer residential alarm system sales, service, installation, or monitoring unless it has been providing monitoring services to residences within the boundaries of the political subdivision as of September 1, 1999. Any fee charged by the political subdivision may not exceed the cost of the monitoring.

(c) A political subdivision may:

(1) offer service, installing, or monitoring for property owned by the political subdivision or another political subdivision;

(2) allow for the response of an alarm or detection device by a law enforcement agency or fire department or by a law enforcement officer or firefighter acting in an official capacity; or

(3) offer monitoring to a financial institution, as defined by Section 59.301, Finance Code, that requests, in writing, that the political subdivision provide monitoring service to the financial institution.

(d) The limitations in subsection (b) do not apply to a political subdivision in a county with a population of less than 80,000 or in a political subdivision where monitoring is not otherwise provided or available.

(e) For purposes of Subsection (b), (c) and (d), the definition of "monitoring" means the receipt of fire alarm or supervisory signals or retransmission or communication of those signals to a fire service communications center that is located in this state or serves property in this state. This is not intended to require a political subdivision to be licensed under Art. 5.43-2, Texas Insurance Code.

Amend **HB 3189** by striking SECTION 17 as amended by **CSHB 2617** and **HCR 295**, Acts of the 76th Legislature and replacing it, where appropriate, to read SECTION ___, Section 13, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes) by adding subsections (d), (e) and (f) to read as follows:

(d) Except as provided by subsection (e), a political subdivision may not offer residential alarm system sales, service, installation, or monitoring unless it has been providing monitoring services to residences within the boundaries of the political subdivision as of September 1, 1999. Any fee charged by the political subdivision may not exceed the cost of the monitoring.

(e) A political subdivision may offer:

(1) service, installation, or monitoring for property owned by the political subdivision or another political subdivision;

(2) allow for the response of an alarm or detection device by a law enforcement agency or by a law enforcement officer acting in an official capacity; or

(3) monitoring in connection with a criminal investigation; or

(4) monitoring to a financial institution, as defined by Section 59.301, Finance Code, that requests, in writing, that the political subdivision provide monitoring service to the financial institution.

(f) The limitations of subsection (d) do not apply to a political subdivision in a county with a population of less than 80,000 or in a political subdivision where monitoring is not otherwise provided or available.

The amendment was read.

Senator Gallegos moved to table Floor Amendment No. 1.

The motion to table was lost by the following vote: Yeas 10, Nays 20.

Yeas: Barrientos, Bivins, Brown, Ellis, Gallegos, Lucio, Madla, Truan, West, Zaffirini.

Nays: Armbrister, Bernsen, Cain, Carona, Duncan, Fraser, Harris, Haywood, Jackson, Lindsay, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, Whitmire.

Absent-excused: Luna.

Question recurring on the adoption of Floor Amendment No. 1, the amendment was adopted by a viva voce vote.

RECORD OF VOTE

Senator Brown asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 1.

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

HB 3189 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3189 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3189** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 3189 was read third time and was passed by a viva voce vote.

HOUSE BILL 3033 ON SECOND READING

On motion of Senator Carona 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:

HB 3033, Relating to the ad valorem taxation of an inventory consisting of motor vehicles held for sale.

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

HOUSE BILL 3033 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3033** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 3033 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2735 ON SECOND READING

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

HB 2735, Relating to the authority of the General Services Commission to grant certain interests in certain real property owned by the state.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2735** as follows:

On page 1, line 36, insert the following:

(d) The commission shall approve all joint use agreements, franchises, and licenses under this section by a majority vote in an open meeting.

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

HOUSE BILL 2735 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2735** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 2735 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1100 ON SECOND READING

On motion of Senator Carona 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:

HB 1100, Relating to contracts for enforcement of certain arrest warrants.

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

HOUSE BILL 1100 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1100** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 1100 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

VOTE RECONSIDERED ON

HOUSE BILL 1248

On motion of Senator Lucio and by unanimous consent, the vote by which **HB 1248** was finally passed was reconsidered.

Question—Shall **HB 1248** as amended be finally passed?

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 1248**, section 3.04, amending sections 14(b), (c) and (e), Article 249e, Revised Statutes, is amended by adding Section 5(j):

(j) A registered interior designer, as herein defined, who is, as of September 1, 1999, a full-time faculty member or other permanent employee of an institution of higher education, as defined in Education Code, section 61.003, and who in such position, is engaged in teaching interior design, shall be exempt from the continuing education requirements of this Article.

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 1248**, section 2.03, amending sections 7(d)-(h), Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), is amended by adding Section 7(j):

(j) A registered landscape architect, as herein defined, who is, as of September 1, 1999, a full-time faculty member or other permanent employee of an institution of higher education, as defined in Education Code, section 61.003, and who in such position, is engaged in teaching landscape architecture, shall be exempt from the continuing education requirements of this Article.

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 6

Amend **HB 1248**, section 1.12, amending sections 12(c)-(h), Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), is amended by adding Section 12(j):

(j) A registered architect, as herein defined, who is, as of September 1, 1999, a full-time faculty member or other permanent employee of an institution of higher education, as defined in Education Code, section 61.003, and who in such position, is engaged in teaching architecture, shall be exempt from the continuing education requirements of this Article.

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

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

HB 1248 as again amended was again finally passed by a viva voce vote.

RECORD OF VOTE

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3543 ON SECOND READING**

On motion of Senator Cain 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:

CSHB 3543, Relating to competitive bidding by mass transit authorities.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3543 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3543** be placed on its third reading and final passage.

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

Absent-excused: Luna.

CSHB 3543 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2372 ON SECOND READING

On motion of Senator Ellis 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:

HB 2372, Relating to exempting certain drugs, medicines, and medical devices from the sales tax.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 2372**, relating to Section 151.313(a) of the Tax Code, as follows:
On page 2, line 22, strike Section 2 of the bill.

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

On motion of Senator Ellis 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 551 ON SECOND READING

On motion of Senator Fraser 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:

HB 551, Relating to exempting certain small corporations from the franchise tax and to the reporting requirements for those corporations.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 551** by striking all below the enacting clause and substituting the following:

SECTION 1. Subsection (d), Section 171.002, Tax Code, is amended to read as follows:

(d) ~~A~~ If the amount of tax computed for a corporation is less than \$100, the corporation is not required to pay any tax [that amount] and is not considered to owe any tax for a [that] period if:

(1) the amount of tax computed for the corporation is less than \$100; or

(2) the amount of the corporation's gross receipts:

(A) from its entire business under Section 171.105 is less than \$250,000; and

(B) from its entire business under Section 171.1051, including the amount excepted under Section 171.1051(a), is less than \$250,000.

SECTION 2. Section 171.204, Tax Code, is amended to read as follows:

Sec. 171.204. INFORMATION REPORT. (a) Except as provided by Subsection (b), to [Fø] determine eligibility for the exemption provided by Section 171.2022, or to determine the amount of the franchise tax or the correctness of a franchise tax report, the comptroller may require an officer of a corporation that may be subject to the tax imposed under this chapter to file an information report with the comptroller stating the amount of the corporation's taxable capital and earned surplus, or any other information the comptroller may request.

(b) The comptroller may not require an officer of a corporation that does not owe any tax because of the application of Section 171.002(d)(2) to file an information report.

SECTION 3. (a) Before the beginning of the 79th Legislature, Regular Session, the comptroller of public accounts shall report to the legislature and the governor on the effect that exempting small corporations from the franchise tax under Section 171.002, Tax Code, as amended by this Act, and from the reporting requirements has had on the economy of this state, including on the creation of new jobs in this state.

(b) The report must include:

(1) an assessment of the intended purposes of the exemptions and whether the exemptions are achieving those objectives;

(2) an assessment of whether the exemptions have created any problems in the administration of the franchise tax; and

(3) a recommendation for retaining, eliminating, or amending the exemptions.

(c) The comptroller of public accounts may include the report in any other report made to the legislature.

SECTION 4. (a) This Act takes effect January 1, 2000, and applies to a report that, if the corporation required to make the report was not exempt from that requirement, would be originally due on or after that date.

(b) The change in law made by this Act does not affect taxes imposed before the effective date of this Act, and the law in effect before that date is continued in effect for purposes of the liability for and collection of those taxes.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

On motion of Senator Fraser 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.

**COMMITTEE SUBSTITUTE
HOUSE BILL 143 ON SECOND READING**

On motion of Senator West 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:

CSHB 143, Relating to the personal needs allowance for certain Medicaid recipients who are residents of long-term care facilities.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 143**, SECTION 1, Subsection (v), on page 1, line 15, after the word "department" by striking the words "shall set a personal needs allowance of not less than \$60 a month" and inserting the words "is authorized to increase the personal needs allowance above the minimum of \$30 a month, subject to the availability of funds,".

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

On motion of Senator West 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.

**COMMITTEE SUBSTITUTE
HOUSE BILL 143 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 143** be placed on its third reading and final passage.

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

Absent-excused: Luna.

CSHB 143 was read third time and was passed by a viva voce vote.

(President in Chair)**SENATE RULE 5.14(a) SUSPENDED
(Intent Calendar)**

Senator Truan moved to suspend Senate Rule 5.14(a) to allow Members to place more than five bills or resolutions on the Intent Calendar today.

The motion prevailed without objection.

HOUSE BILL 2031 ON SECOND READING

On motion of Senator Armbrister 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:

HB 2031, Relating to the process of notifying drivers of license suspension by mail.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2031** as follows:

(1) Add appropriately numbered SECTIONS to the bill to read as follows:

SECTION __. Section 524.011, Transportation Code, is amended by amending Subsections (b), (c), and (e) and adding Subsection (f) to read as follows:

(b) A peace officer shall:

(1) serve or, if a specimen is taken and the analysis of the specimen is not returned to the arresting officer before the person is admitted to bail, released from custody, delivered as provided by Title 3, Family Code, or committed to jail, attempt to serve notice of driver's license suspension by delivering the notice to the arrested person; ~~and~~

(2) take possession of any driver's license issued by this state that is held by the person arrested;

(3) issue a temporary driving permit to the person unless department records show or the officer otherwise determines that the person does not hold a license or permit to operate a motor vehicle in this state; and

(4) send to the department not later than the fifth business day after the date of the arrest:

(A) a copy of the driver's license suspension notice; ~~and~~

(B) any driver's license taken by the officer;

(C) a copy of any temporary driver's permit issued under this section; and

(D) a sworn report of information relevant to the arrest.

(c) The report required under Subsection (b)(4)(D) [~~(b)(2)(B)~~] must:

(1) identify the arrested person;

(2) state the arresting officer's grounds for believing the person committed the offense; ~~and~~

(3) give the analysis of the specimen, if any [~~and~~

~~(4) include a copy of the criminal complaint filed in the case, if any].~~

(e) The department shall develop forms [a form] for the notice of driver's license suspension and the temporary driving permit to [that shall] be used by all state and local law enforcement agencies.

(f) A temporary permit issued under this section is valid for 40 days after the date of issuance. If the person was driving a commercial motor vehicle, as defined by Section 522.003, a temporary driving permit that authorizes an individual to drive a commercial motor vehicle is not effective until 24 hours after the time of arrest.

SECTION __. Subsection (a), Section 524.022, Transportation Code, is amended to read as follows:

(a) A period of suspension under this chapter for an adult is:

(1) 60 days if the person's driving record shows no alcohol-related or drug-related enforcement contact during the 10 [five] years preceding the date of the person's arrest; or

(2) six months [120 days if the person's driving record shows one or more alcohol-related or drug-related enforcement contacts, as defined by Section 524.001(2)(B) or (C), during the five years preceding the date of the person's arrest; or

[(3) 180 days] if the person's driving record shows one or more alcohol-related or drug-related enforcement contacts[, as defined by Section 524.001(2)(A);] during the 10 [five] years preceding the date of the person's arrest.

SECTION __. Subsection (d), Section 524.032, Transportation Code, is amended to read as follows:

(d) A request for a hearing stays suspension of a person's driver's license until the date of the final decision of the administrative law judge. If the person's driver's license was taken by a peace officer under Section 524.011(b), the department shall notify the person of the effect of the request on the suspension of the person's license before the expiration of the temporary permit issued to the person, if the person is otherwise eligible, in a manner that will permit the person to establish to a peace officer that the person's driver's license is not suspended.

SECTION __. Subsection (c), Section 524.035, Transportation Code, is amended to read as follows:

(c) If the administrative law judge does not find in the affirmative on each issue in Subsection (a), the department shall:

(1) return the person's driver's license to the person, if the license was taken by a peace officer under Section 524.011(b);

(2) reinstate the person's driver's license; and

(3) [(2)] rescind an order prohibiting the issuance of a driver's license to the person.

SECTION ____. Section 524.037, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) If the person's driver's license was taken by a peace officer under Section 524.011(b), the department shall notify the person of the effect of the continuance on the suspension of the person's license before the expiration of the temporary permit issued to the person, if the person is otherwise eligible, in a manner that will permit the person to establish to a peace officer that the person's driver's license is not suspended.

SECTION ____. Section 724.015, Transportation Code, is amended to read as follows:

Sec. 724.015. INFORMATION PROVIDED BY OFFICER BEFORE REQUESTING SPECIMEN. Before requesting a person to submit to the taking of a specimen, the officer shall inform the person orally and in writing that:

(1) if the person refuses to submit to the taking of the specimen, that refusal may be admissible in a subsequent prosecution and may result in the immediate confiscation of the person's license and may result in the suspension of the person's license for six months;

(2) if the person submits [refuses to submit] to the taking of the specimen and an analysis of the specimen shows that the person had an alcohol concentration of a level specified by Chapter 49, Penal Code, the person's license may be immediately confiscated and the person's license may be suspended for 60 days; and[-, the person's license to operate a motor vehicle will be automatically suspended, whether or not the person is subsequently prosecuted as a result of the arrest, for:

[(A) not less than 90 days if the person is 21 years of age or older; or

[(B) not less than 120 days if the person is younger than 21 years of age;]

(3) [if the person is 21 years of age or older and submits to the taking of a specimen designated by the officer and an analysis of the specimen shows the person had an alcohol concentration of a level specified by Chapter 49, Penal Code, the person's license to operate a motor vehicle will be automatically suspended for not less than 60 days, whether or not the person is subsequently prosecuted as a result of the arrest;

[(4) if the person is younger than 21 years of age and has any detectable amount of alcohol in the person's system, the officer is required to take possession of the person's license to operate a motor vehicle and the person's license to operate a motor vehicle will be automatically suspended for not less than 60 days even if the person submits to the taking of the specimen[-, but that if the person submits to the taking of the specimen and an analysis of the specimen shows that the person had an alcohol concentration less than the level specified by Chapter 49, Penal Code, the person may be subject to criminal penalties less severe than those provided under that chapter;

[(5) if the officer determines that the person is a resident without a license to operate a motor vehicle in this state, the department will deny to the person the issuance of a license, whether or not the person is subsequently prosecuted as a result of the arrest, under the same conditions and for the same periods that would have applied to a revocation of the person's driver's license if the person had held a driver's license issued by this state; and

[(6) the person has a right to a hearing on the suspension or denial if, not later than the 15th day after the date on which the person receives the notice of suspension or denial or on which the person is considered to have received the notice by mail as provided by law, the department receives, at its headquarters in Austin, a written demand, including a facsimile transmission, or a request in another form prescribed by the department for the hearing].

SECTION _____. Section 724.032, Transportation Code, is amended to read as follows:

Sec. 724.032. OFFICER'S DUTIES FOR DRIVER'S LICENSE [ISSUANCE BY OFFICER OF NOTICE OF] SUSPENSION [OR DENIAL OF LICENSE]; WRITTEN REFUSAL REPORT. (a) If a person refuses to submit to the taking of a specimen, whether expressly or because of an intentional failure of the person to give the specimen, the peace officer shall:

- (1) serve notice of license suspension or denial on the person; ~~[and]~~
- (2) take possession of any driver's license issued by this state that is held by the person arrested;
- (3) issue a temporary driving permit to the person unless department records show, or the officer otherwise determines, that the person does not hold a license or permit to operate a motor vehicle in this state; and
- (4) make a written report of the refusal to the director of the department.
- (b) The director must approve the form of the refusal report. The report must:
- (1) show the grounds for the officer's belief that the person had been operating a motor vehicle while intoxicated; and
- (2) contain a copy of:
- (A) the refusal statement requested under Section 724.031; or
- (B) a statement signed by the officer that the person refused to:
- (i) submit to the taking of the requested specimen; and
- (ii) sign the requested statement under Section 724.031.
- (c) The officer shall forward to the department ~~[a copy of the notice of suspension or denial and the refusal report]~~ not later than the fifth business day after the date of the arrest:
- (1) a copy of the notice of suspension or denial;
- (2) any driver's license taken by the officer under Subsection (a);
- (3) a copy of any temporary driver's permit issued under Subsection (a); and
- (4) a copy of the refusal report.
- (d) The department shall develop forms for notices of suspension or denial and temporary driving permits to [that shall] be used by all state and local law enforcement agencies.
- (e) A temporary permit issued under this section is valid for 40 days after the date of issuance. If the person was driving a commercial motor vehicle, as defined by Section 522.003, a temporary driving permit that authorizes an individual to drive a commercial motor vehicle is not effective until 24 hours after the time of arrest.
- SECTION _____. Section 724.035, Transportation Code, is amended to read as follows:
- Sec. 724.035. SUSPENSION OR DENIAL OF LICENSE. (a) If a person refuses the request of a peace officer to submit to the taking of a specimen, the department shall:
- (1) suspend the person's license to operate a motor vehicle on a public highway for six months ~~[90 days if the person is 21 years of age or older or 120 days if the person is younger than 21 years of age];~~ or
- (2) if the person is a resident without a license, issue an order denying the issuance of a license to the person for six months ~~[90 days if the person is 21 years of age or older or 120 days if the person is younger than 21 years of age].~~
- (b) ~~[The period of suspension or denial is 180 days if the person is 21 years of age or older or 240 days if the person is younger than 21 years of age and the person's driving record shows one or more alcohol-related or drug-related enforcement contacts, as defined by Section 524.001(3)(B) or (C), during the five years preceding the date of the person's arrest.~~
- ~~[(e)]~~ The period of suspension or denial is one year if the person's driving record shows one or more alcohol-related or drug-related enforcement contacts, as defined by Section 524.001 ~~[524.001(3)(A)]~~, during the five years preceding the date of the person's arrest.

(c) ~~(d)~~ A suspension or denial takes effect on the 40th day after the date on which the person:

- (1) receives notice of suspension or denial under Section 724.032(a); or
- (2) is considered to have received notice of suspension or denial under Section 724.033.

SECTION _____. Subsection (c), Section 724.041, Transportation Code, is amended to read as follows:

(c) A request for a hearing stays the suspension or denial until the date of the final decision of the administrative law judge. If the person's driver's license was taken by a peace officer under Section 724.032(a), the department shall notify the person of the effect of the request on the suspension of the person's license before the expiration of the temporary permit issued to the person, if the person is otherwise eligible, in a manner that will permit the person to establish to a peace officer that the person's driver's license is not suspended.

SECTION _____. Subsection (b), Section 724.043, Transportation Code, is amended to read as follows:

(b) If the administrative law judge does not find in the affirmative on each issue under Section 724.042, the department shall return the person's driver's license to the person, if the license was taken by a peace officer under Section 724.032(a), and reinstate the person's license or rescind any order denying the issuance of a license because of the person's refusal to submit to the taking of a specimen under Section 724.032(a).

SECTION _____. Subchapter L, Chapter 521, Transportation Code, is amended by adding Section 521.2425 to read as follows:

Sec. 521.2425. GRANTING OF OCCUPATIONAL LICENSE BY ADMINISTRATIVE LAW JUDGE. (a) Notwithstanding Sections 521.242, 521.243, and 521.244, a person whose driver's license suspension is sustained at the conclusion of a hearing under Chapter 524 or 724 is entitled to apply for the issuance of an occupational license by filing a written request for the issuance of the license with the administrative law judge before the conclusion of the hearing.

(b) If the person's driving records shows no alcohol-related or drug-related enforcement contacts, as defined by Section 524.001, during the five years preceding the date of the person's arrest, the administrative law judge shall grant the request.

(c) The administrative law judge may require as a condition of granting a request for the issuance of an occupational license under this section that the person attend a counseling and rehabilitation program as described by Section 521.245.

(d) Sections 521.248 through 521.253 apply to an occupational license issued under this section.

(e) This section does not prohibit a person from applying for an occupational license under another provision of this subchapter.

SECTION _____. Section 521.251, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding Section 521.421, the fee for an occupational license issued by the department is \$125 for an occupational license issued to a person whose driver's license was suspended under Chapter 524 or 724, or as a result of a conviction under Chapter 49, Penal Code.

(2) In SECTION 10(b) of the bill, between "made by this Act" and "applies only to" (Senate Committee Printing, page 2, line 34), insert "relating to providing notice of a driver's license suspension by mail".

(3) In SECTION 10 of the bill, at the end of Subsection (b) (Senate Committee Printing, page 2, between lines 38 and 39), insert the following:

(c) The change in law made by this Act relating to requiring a peace officer to take possession of a person's driver's license and to the suspension of that license applies only to a person arrested for an offense committed on or after the effective date of this Act. A person arrested for an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(4) Renumber the existing SECTIONS of the bill accordingly.

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

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2031**, at the end of proposed Section 521.251(e), Transportation Code (on page 9, line 30), by adding the following:

"Fees collected under this subsection may be appropriated only to the department to pay the department's administrative costs incurred in:

(1) receiving, safekeeping, and evaluating the status of driver's licenses taken by a peace officer from the license holder under Section 524.011(b) or 724.032(a); and

(2) issuing occupational licenses granted under Section 521.2425."

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

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 2031** by adding the following new section and renumbering other sections appropriately.

SUBCHAPTER N. VERIFICATION OF COMPLIANCE WITH AND ENFORCEMENT OF FINANCIAL RESPONSIBILITY REQUIREMENTS

Sec. 601.501. DEFINITIONS. In this subchapter:

(1) "Department" means the Texas Department of Transportation.

(2) "Verification date" means the date set by the department in the written request to the owner of a motor vehicle requiring the owner to state whether the owner has established financial responsibility in accordance with Section 601.051.

Sec. 601.502. VERIFICATION OF ESTABLISHMENT OF FINANCIAL RESPONSIBILITY THROUGH RANDOM SAMPLING. (a) The department or an agent of the department shall randomly select samples of registrations of motor vehicles subject to this chapter, or samples of owners of motor vehicles subject to this chapter, to verify whether the owner has established financial responsibility in accordance with Section 601.051. A sample selected under this section may not be classified on the basis of the owner's race, color, religion, sex, national origin, age, marital status, physical or mental disability, economic status, or geographic location.

(b) In addition to the general random sampling of motor vehicle registrations, the department may randomly select other persons to verify that the person has established financial responsibility, including:

(1) a person who, during the four years preceding the date of selection:

(A) has been convicted of a violation of Section 601.051, 601.191, 601.195, 601.196, or 601.509, including a violation that occurred while the person was operating a motor vehicle owned by another person; or

(B) has received deferred disposition under Article 45.54, Code of Criminal Procedure, for a violation of Section 601.051, 601.191, 601.195, 601.196, or 601.509;

(2) a person whose motor vehicle registration has been the subject of a deferred suspension under Section 601.505(a) during the preceding four years; or

(3) a person whose driver's license or motor vehicle registration has been suspended during the preceding four years.

(c) The department shall send to the motor vehicle owner a request for information about the motor vehicle and the owner's method of establishing financial responsibility. The request must:

(1) state the verification date; and

(2) require the owner to state whether the owner has, as of the verification date, established financial responsibility in accordance with Section 601.051.

(d) The department by rule shall prescribe:

(1) the methods employed for the random selection of samples and the procedures necessary for implementation of the verification process, including the method of sending the verification request, which may include certified mail, return receipt requested;

(2) the frequency of sample selection;

(3) the form for verification of financial responsibility; and

(4) the information to be requested in the prescribed form.

(e) The department may require the information provided by the owner to include a statement by the owner that the owner had, as of the verification date, established financial responsibility:

(1) through liability insurance under Subchapter D, including:

(A) the name and address of the insurer;

(B) the number of the insurance policy; and

(C) the expiration date of the insurance coverage;

(2) by filing a surety bond with the Department of Public Safety under Section 601.121, including:

(A) the name and address of the company issuing the bond;

(B) the identification number of the bond; and

(C) the expiration date of the bond;

(3) by depositing cash or securities with the comptroller under Section 601.122, including a copy of the certificate issued by the comptroller showing compliance;

(4) by depositing cash or a cashier's check with the county judge of the county in which the motor vehicle is registered under Section 601.123, including a copy of the certificate issued by the county judge showing compliance; or

(5) through self-insurance under Section 601.124, including a copy of the certificate of self-insurance issued by the Department of Public Safety.

(f) Not later than the 30th day after the verification date, the owner to whom the notice is sent shall furnish the requested information to the department in the form prescribed by the department, accompanied by the owner's signed affirmation that the information is true and correct.

(g) An owner whose response indicates that the owner had not established financial responsibility in accordance with Section 601.051, or who fails to respond to

the request, is subject to suspension of the owner's motor vehicle registration in the manner provided by Section 601.505.

(h) If the owner responds to the request for information by asserting that the owner had, as of the verification date, established financial responsibility in accordance with a method authorized by Section 601.051, the department may conduct a verification investigation as provided by Section 601.503.

Sec. 601.503. VERIFICATION INVESTIGATION. (a) To verify a response received from an owner under Section 601.502, the department or an agent of the department may furnish necessary information to the insurer, surety, or officer named in the response. Not later than the 30th day after the date of receipt of the information, the insurer, surety, or officer shall inform the department whether, as of the verification date, financial responsibility had been established for the affected motor vehicle in accordance with Section 601.051.

(b) If the response received from an owner under Section 601.502 states that financial responsibility has been established through self-insurance, the department shall examine the department's records to verify that a certificate of self-insurance has been issued in accordance with Section 601.124.

Sec. 601.504. WARNING NOTICE. (a) If an owner responds under Section 601.502 that the owner has not established financial responsibility or the owner fails to respond in a timely manner, or if the department otherwise determines that an owner has registered or maintained the registration of a motor vehicle without establishing financial responsibility in accordance with Section 601.051, the department shall issue a warning notice to the owner.

(b) The warning notice must inform the owner that the owner is not in compliance with Section 601.051 and that the owner's motor vehicle registration is suspended on the 45th day after the date on which the warning notice is mailed unless the owner complies with the requirements described by Subsection (c) for deferral of the suspension.

(c) The warning notice must include a statement informing the owner that the department shall defer the suspension of the owner's registration if, not later than the 30th day after the date of the mailing of the warning notice, the owner establishes financial responsibility in the manner prescribed by Section 601.505.

Sec. 601.505. SUSPENSION; REINSTATEMENT; EXCEPTION. (a) The department shall suspend the registration of an owner to whom a notice is issued under Section 601.504. For a first violation, the department shall terminate the suspension on payment by the owner of a \$100 reinstatement fee and submission of proof of financial responsibility as prescribed by the department. For a second or subsequent violation within the preceding four years or a violation of Section 601.507, the department shall terminate the suspension on the 120th day after the effective date of the suspension on payment by the owner of a \$100 reinstatement fee and submission of proof of financial responsibility as prescribed by the department.

(b) For a first violation, the department shall defer the suspension and any reinstatement fee if the owner submits to the department, not later than the 15th day after the date of the warning notice under Section 601.504, proof of financial responsibility evidenced by a motor vehicle insurance policy, the premiums of which have been prepaid for a term of at least six months. On the earlier of the 180th day after the date of the warning notice or the expiration date of the insurance policy described by this subsection, the owner shall submit to the department evidence of renewal of the motor vehicle insurance policy, the premiums of which have been prepaid for a term

of at least six months. If the owner fails to submit the required evidence of renewal, the department shall impose the suspension and reinstatement fee.

(c) Notwithstanding any other provision of this subchapter, the department may register in accordance with Chapter 502 the motor vehicle of an applicant for registration who:

(1) received a request for information under Section 601.502; and

(2) presents proof of financial responsibility that:

(A) complies with Section 601.051; and

(B) was in effect on the verification date of the request for information.

Sec. 601.506. SUBMISSION OF FALSE PROOF. If the department determines that the proof of financial responsibility submitted by a motor vehicle owner under Section 601.502 is false, the department shall suspend the owner's motor vehicle registration. The department shall terminate the suspension on the 180th day after the effective date of the suspension on payment by the owner of a \$200 reinstatement fee and submission of proof of financial responsibility as prescribed by the department.

Sec. 601.507. OPERATION OF MOTOR VEHICLE WHILE REGISTRATION SUSPENDED FOR FAILURE TO ESTABLISH FINANCIAL RESPONSIBILITY.

(a) A person may not operate a motor vehicle if the registration of the motor vehicle is suspended under this subchapter.

(b) A person commits a business offense if the person violates Subsection (a). A business offense under this subsection is punishable by a fine of not less than \$1,000 or more than \$2,000.

Sec. 601.508. MAINTENANCE OF EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) Each operator of a motor vehicle subject to Section 601.051 shall carry within the vehicle a written document providing evidence of financial responsibility. The document must be legible and provide information sufficient to demonstrate that the owner or operator of the motor vehicle has established financial responsibility as required under Section 601.051 and may include:

(1) a motor vehicle liability insurance policy covering the vehicle that satisfies Subchapter D or a photocopy of the policy;

(2) a standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance;

(3) a liability insurance binder as specified by Section 601.080 or a certificate of liability insurance as specified by Section 601.083;

(4) the combination of proof of purchase of the motor vehicle within the previous 30 days and current proof of insurance;

(5) evidence that a surety bond has been filed with the Department of Public Safety in accordance with Section 601.121;

(6) a certificate issued by the comptroller stating that a deposit has been made with the comptroller that complies with Section 601.122;

(7) a certificate issued by a county judge stating that a deposit has been made with the county judge that complies with Section 601.123;

(8) a certificate of self-insurance issued by the Department of Public Safety in accordance with Section 601.124; or

(9) a certificate, decal, or other document issued by a governmental agency for a motor vehicle that indicates that the vehicle is owned by the United States, this state, or a political subdivision of this state.

(b) The operator of a motor vehicle shall surrender the evidence of financial responsibility into the possession of a peace officer, court, or court officer who requests inspection of the evidence of financial responsibility. A person who fails or refuses to comply with such a request is presumed to violate Section 601.051.

(c) A person who provides evidence of financial responsibility knowing that financial responsibility has not been established as required under Section 601.051 or that the evidence of financial responsibility is illegally altered, counterfeit, or otherwise invalid is presumed to violate Sections 601.196 and 601.509.

Sec. 601.509. DISPLAY OF FALSE PROOF OF FINANCIAL RESPONSIBILITY; CRIMINAL PENALTY. (a) A person commits an offense if the person provides evidence of financial responsibility to a peace officer, court, or officer of the court knowing that financial responsibility has not been established as required under Section 601.051 or that the evidence of financial responsibility is illegally altered, counterfeit, or otherwise invalid.

(b) If a peace officer issues a citation to a motor vehicle operator for displaying invalid evidence of financial responsibility, the officer shall confiscate the invalid evidence of financial responsibility for presentation in court.

(c) An offense under this section is a Class B misdemeanor.

Sec. 601.510. DISPOSITION OF FEES. From the reinstatement fees collected under this subchapter, the department shall recover its costs in implementing and administering the verification program. The department shall deposit any amounts collected that exceed the administrative costs of the department under this subchapter in the general revenue fund.

Sec. 601.511. USE OF AGENTS BY DEPARTMENT. The department may submit requests for proposals for contracts with private vendors to perform the random sampling and the verification investigations required under this subchapter. The department may enter into contracts as necessary to implement this section.

SECTION 1.02. Section 601.051, Transportation Code, is amended to read as follows:

Sec. 601.051. REQUIREMENT OF FINANCIAL RESPONSIBILITY. (a) A person may not operate, register, or maintain registration of a motor vehicle in this state unless financial responsibility is established for that vehicle through:

(1) a motor vehicle liability insurance policy that complies with Subchapter D;

(2) a surety bond filed under Section 601.121;

(3) a deposit under Section 601.122;

(4) a deposit under Section 601.123; or

(5) self-insurance under Section 601.124.

(b) An owner of a motor vehicle may not permit another person to operate, register, or maintain registration of the motor vehicle in this state unless financial responsibility is established for that vehicle and evidenced through a method described by Subsection (a).

SECTION 1.03. Section 601.191, Transportation Code, is amended to read as follows:

Sec. 601.191. OPERATION OF MOTOR VEHICLE IN VIOLATION OF FINANCIAL RESPONSIBILITY REQUIREMENTS [~~MOTOR VEHICLE LIABILITY INSURANCE REQUIREMENT; OFFENSE~~]. (a) A person commits an offense if the person operates a motor vehicle in violation of Section 601.051.

(b) Except as provided by Subsection [~~Subsections (c) and~~] (d), an offense under this section is a business offense [~~misdemeanor~~] punishable by a fine of not less than \$500 [~~\$175~~] or more than \$1,000 [~~\$350~~].

(c) It is a defense to prosecution under this section, Section 601.195, and Section 601.507 that the person charged with a violation produces in court satisfactory evidence that, at the time of the arrest, the owner or operator had established financial responsibility in accordance with Section 601.051 [~~If a person has been previously~~

~~convicted of an offense under this section, an offense under this section is a misdemeanor punishable by a fine of not less than \$350 or more than \$1,000].~~

(d) If the court determines that a person who has not been previously convicted of a business ~~[an]~~ offense under this section is economically unable to pay the fine, the court may reduce the fine to less than ~~\$500~~ ~~[\$175]~~.

SECTION 1.04. Section 12.02, Penal Code, is amended to read as follows:

Sec. 12.02. CLASSIFICATION OF OFFENSES. Offenses are designated as felonies, ~~[or]~~ misdemeanors, or business offenses.

SECTION 1.05. Subchapter A, Chapter 12, Penal Code, is amended by adding Section 12.05 to read as follows:

Sec. 12.05. BUSINESS OFFENSE. (a) A business offense is a nonmisdemeanor offense for which the penalty is a fine of at least \$500.

(b) Conviction of a business offense does not impose any legal disability or disadvantage.

SECTION 1.06. The heading to Subchapter B, Chapter 12, Penal Code, is amended to read as follows:

SUBCHAPTER B. ORDINARY MISDEMEANOR
AND BUSINESS OFFENSE PUNISHMENTS

SECTION 1.07. Subchapter B, Chapter 12, Penal Code, is amended by adding Section 12.24 to read as follows:

Sec. 12.24. BUSINESS OFFENSE. An individual adjudged guilty of a business offense shall be punished by a fine of at least \$500.

SECTION 1.08. In performing sample selection under Section 601.502, Transportation Code, as added by this Act, the Texas Department of Transportation shall ensure that at least 500,000 samples are selected on or before September 1, 2001.

SECTION 1.09. (a) In cooperation with the Texas Department of Insurance and the Department of Public Safety of the State of Texas, the Texas Department of Transportation shall conduct an evaluation of the implementation and operation of the verification of compliance with the financial responsibility program adopted under Subchapter N, Chapter 601, Transportation Code, as added by this Act, and of the effectiveness of the verification program in increasing compliance with the financial responsibility requirements established under Subchapter C, Chapter 601, Transportation Code. The evaluation must include:

(1) a computation, by year, of the number of persons determined by the department through the application of the verification program to be driving without compliance with the financial responsibility requirements established under Subchapter C, Chapter 601, Transportation Code; and

(2) the annual effect of the program, as determined by the Texas Department of Insurance, on the rate for uninsured motorist insurance coverage under Article 5.06-1, Insurance Code.

(b) The Texas Department of Transportation shall enter into contracts, memoranda of understanding, or interagency agreements as necessary to implement this section.

(c) The Texas Department of Transportation shall report the results of the evaluation conducted under this section to the 80th Legislature not later than February 1, 2007. The department shall provide written copies of the report to the governor, the lieutenant governor, and the speaker of the house of representatives.

ARTICLE 2. UNINSURED AND
UNDERINSURED MOTORIST COVERAGE

SECTION 2.01. Article 5.06-1, Insurance Code, is amended to read as follows:

Art. 5.06-1. UNINSURED OR UNDERINSURED MOTORIST COVERAGE.

(a) ~~[(†)]~~ No automobile liability insurance (including insurance issued through the Texas Automobile Insurance Plan Association [pursuant to an Assigned Risk Plan established under authority of Section 35 of the Texas Motor Vehicle Safety-Responsibility Act]), covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state unless coverage is provided therein or supplemental thereto, ~~[in at least the limits described in the Texas Motor Vehicle Safety-Responsibility Act,]~~ under provisions prescribed by the commissioner [Board], for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness, or disease, including death, or property damage resulting therefrom. The coverages required under this Article shall not be applicable where any insured named in the policy shall reject the coverage in writing; provided that unless the named insured thereafter requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy where the named insured has rejected the coverage in connection with a policy previously issued to the named insured [him] by the same insurer or by an affiliated insurer.

(b) ~~[(2)]~~ For the purpose of these coverages:

(1) "Exemplary damages" has the meaning assigned by Section 41.001, Civil Practice and Remedies Code.

(2) "Noneconomic damages" means damages other than compensatory damages for pecuniary loss. The term includes damages for physical pain and mental anguish, loss of consortium, disfigurement, physical impairment, or loss of companionship and society. The term does not include exemplary damages.

(3) "Uninsured ~~[(a) the term "uninsured]~~ motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency.

(4) "Underinsured ~~[(b) The term "underinsured]~~ motor vehicle" means an insured motor vehicle on which there is valid and collectible liability insurance coverage with limits of liability for the owner or operator which were originally lower than, or have been reduced by payment of claims arising from the same accident to, an amount less than the limit of liability stated in the underinsured coverage of the insured's policy.

(c) The commissioner [Board] may, in the policy forms adopted under Article 5.06 of this code, define "uninsured motor vehicle" to exclude certain motor vehicles whose operators are in fact uninsured.

(d) The portion of a policy form adopted under Article 5.06 of this code to provide coverage under this article shall include provisions that, regardless of the number of persons insured, policies or bonds applicable, vehicles involved, or claims made, the total aggregate limit of liability to any one person who sustains bodily injury or property damage as the result of any one occurrence shall not exceed the limit of liability for these coverages as stated in the policy and the total aggregate limit of liability to all claimants, if more than one, shall not exceed the total limit of liability per occurrence as stated in the policy; and shall provide for the exclusion of the recovery of damages for bodily injury or property damage or both resulting from the intentional

acts of the insured. The portion of a policy form adopted under Article 5.06 of this code to provide coverage under this article shall require that in order for the insured to recover under the uninsured motorist coverages where the owner or operator of any motor vehicle which causes bodily injury or property damage to the insured is unknown, actual physical contact must have occurred between the motor vehicle owned or operated by such unknown person and the person or property of the insured.

(e) Except as provided by Subsection (f) of this article, the [(3) The] limits of liability for bodily injury, sickness, or disease, including death, shall be offered to the insured in amounts not less than those prescribed in Chapter 601, Transportation Code, [the Texas Motor Vehicle Safety-Responsibility Act] and such higher available limits as may be desired by the insured, but not greater than the limits of liability specified in the bodily injury liability provisions of the insured's policy.

(f) The named insured may elect to waive coverage under this article for recovery of noneconomic and exemplary damages resulting from bodily injury, sickness, or disease, including death. If an insured elects to waive coverage under this subsection, Subsection (e) of this article does not apply to the limits of liability that are applicable to the coverage provided under the policy issued to the named insured for damages resulting from bodily injury, sickness, or disease, including death. The commissioner by rule may adopt minimum limits of liability applicable to those damages. Waiver of coverage under this subsection does not affect the insured's right to bring an action for noneconomic and exemplary damages against a responsible party.

(g) [(4) (a)] Coverage for property damage shall be offered to the insured in amounts not less than those prescribed in Chapter 601, Transportation Code, [the Texas Motor Vehicle Safety-Responsibility Act] and such higher available limits as may be desired by the insured, but not greater than limits of liability specified in the property damage liability provisions of the insured's policy, subject to a deductible amount of \$250.

(h) [(b)] If the insured has collision coverage and uninsured or underinsured property damage liability coverage, the insured may recover under the policy coverage chosen by the insured. In the event neither coverage is sufficient alone to cover all damage resulting from a single occurrence, the insured may recover under both coverages. When recovering under both coverages, the insured shall designate one coverage as the primary coverage and pay the deductible applicable to that coverage. The primary coverage must be exhausted before any recovery is made under the secondary coverage. If both coverages are utilized in the payment of damages from a single occurrence, the insured shall not be required to pay the deductible applicable to the secondary coverage when the amount of the deductible otherwise applicable to the secondary coverage is the same as or less than the amount of the deductible applicable to the primary coverage. If both coverages are utilized in the payment of damages from a single occurrence and the amount of the deductible otherwise applicable to the secondary coverage is greater than the amount of the deductible applicable to the primary coverage, the insured shall be required to pay in respect of the secondary coverage only the difference between the amount of the two deductibles. In no event shall the insured recover under both coverages more than the actual damages suffered.

(i) [(5)] The underinsured motorist coverage shall provide for payment to the insured of all sums which the insured [he] shall be legally entitled to recover as damages from owners or operators of underinsured motor vehicles because of bodily injury or property damage in an amount up to the limit specified in the policy, reduced by the amount recovered or recoverable from the insurer of the underinsured motor vehicle. If the named insured has waived coverage under Subsection (f) of this article

for recovery of noneconomic and exemplary damages, the amount paid to the insured may not include any amount attributable to noneconomic and exemplary damages.

(j) [(6)] In the event of payment to any person under any coverage required by this Section and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury, sickness or disease, or death for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer; provided, however, whenever an insurer shall make payment under a policy of insurance issued pursuant to this Act, which payment is occasioned by the insolvency of an insurer, the insured of said insolvent insurer shall be given credit in any judgment obtained against the insured [him], with respect to the insured's [his] legal liability for such damages, to the extent of such payment, but, subject to Section 12 of Article 21.28-C of this code, such paying insurer shall have the right to proceed directly against the insolvent insurer or its receiver, and in pursuance of such right such paying insurer shall possess any rights which the insured of the insolvent company might otherwise have had if the insured of the insolvent insurer had made the payment.

(k) [(7)] If a dispute exists as to whether a motor vehicle is uninsured, the burden of proof as to that issue shall be upon the insurer.

(l) [(8)] Notwithstanding Section 15.032, Civil Practice and Remedies Code, an action against an insurer in relation to the coverage provided under this article, including an action to enforce that coverage, may be brought only:

(1) [(a)] in the county in which the policyholder or beneficiary instituting the suit resided at the time of the accident; or

(2) [(b)] in the county in which the accident involving the uninsured or underinsured motor vehicle occurred.

ARTICLE 3. PROOF OF INSURANCE CARDS

SECTION 3.01. Subchapter A, Chapter 5, Insurance Code, is amended by adding Article 5.06-7 to read as follows:

Art. 5.06-7. FORM AND APPEARANCE OF PROOF OF MOTOR VEHICLE LIABILITY INSURANCE. (a) The commissioner shall prescribe by rule a standard appearance and form for a card issued by an insurer as proof of motor vehicle liability insurance prescribed by Section 601.081, Transportation Code.

(b) In prescribing the appearance of a proof of motor vehicle liability insurance card under Subsection (a) of this article, the commissioner shall require an appearance that is:

(1) difficult to alter, duplicate, or counterfeit; and

(2) not cost-prohibitive for consumers.

(c) A card issued as proof of motor vehicle liability insurance issued in this state by an insurer must conform to the form and appearance prescribed under Subsection (a) of this article.

SECTION 3.02. (a) The commissioner of insurance shall prescribe the standard appearance and form of proof of motor vehicle liability insurance cards as required by Article 5.06-7, Insurance Code, as added by this Act, not later than December 1, 1999.

(b) A card issued by an insurer as proof of motor vehicle liability insurance that is issued on or after January 1, 2000, must conform with rules established by the commissioner of insurance under Article 5.06-7, Insurance Code, as added by this Act. Proof of motor vehicle liability insurance that is issued before January 1, 2000, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

ARTICLE 4. UNAUTHORIZED INSURANCE

SECTION 4.01. The heading to Section 2, Article 1.14-1, Insurance Code, is amended to read as follows:

Sec. 2. ENGAGING IN [~~INSURANCE~~] BUSINESS OF INSURANCE: DEFINITIONS [~~DEFINED~~].

SECTION 4.02. Section 2, Article 1.14-1, Insurance Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) In this article:

(1) "Engaging in the business of insurance" includes the performance of any [~~Any~~] of the following acts in this state, whether effected by mail or otherwise; [~~its defined to be doing an insurance business in this state. The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term insurer as used in this Article includes all corporations, associations, partnerships and individuals engaged as principals in the business of insurance and also includes interinsurance exchanges, mutual benefit societies, and insurance exchanges and syndicates as defined by rules promulgated by the State Board of Insurance.~~]

1. The making of or proposing to make, as an insurer, an insurance contract.

2. The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety.

3. The taking or receiving of any application for insurance.

4. The receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for any insurance or any part thereof.

5. The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state.

6. Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another any person or insurer in the solicitation, negotiation, procurement or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state. The provisions of this subdivision shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of such employer, its parent or affiliated companies.

7. Contracting to provide indemnification or expense reimbursement in this state to persons domiciled in this state or for risks located in this state, whether as an insurer, agent, administrator, trust, funding mechanism, or by any other method, for any type of medical expenses including, but not limited to surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether this coverage is by direct payment, reimbursement, or otherwise. This provision shall not apply to:

(i) any program otherwise authorized by law that is established by any political subdivision of this state or under Chapter 791, Government Code, [~~the provisions of The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes)~~] or by a state agency; or

(ii) a multiple employer welfare arrangement which is fully insured as defined in 29 U.S.C.A. Section 1144(b)(6) except that the Commissioner may apply any laws that regulate the business of insurance in this state to the extent that such laws provide ~~[(+)]~~ standards requiring the maintenance of specified levels of contributions, which any such plan, or any trust established under such a plan, must meet in order to be considered under such law able to pay benefits in full when due, and ~~[(2)]~~ provisions to enforce such standards.

8. The doing of any kind of insurance business specifically recognized as constituting the doing of an insurance business within the meaning of the statutes relating to insurance.

9. The doing or proposing to do any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the statutes.

10. Any other transactions of business in this state by an insurer.

11. With respect to policies authorized under Article 3.74 of this code, the use, creation, publication, mailing, or dissemination of an advertisement relating to any of the acts defined in this subsection to be doing an insurance business unless:

(i) that advertisement is used, created, published, mailed, or disseminated on behalf of a person or insurer authorized under this title to engage in the business of insurance in this state, who has actual knowledge of the content of the advertisement and has authorized the advertisement to be used, created, published, mailed, or disseminated on that person's or insurer's behalf; and

(ii) the person or insurer on whose behalf the advertisement is used, created, published, mailed, or disseminated is, in that advertisement, clearly identified by name as the sponsor of the advertisement.

(2) "Insurer" means a person engaged as a principal in the business of insurance.

(3) "Person" means:

(A) an individual;

(B) a corporation;

(C) an association;

(D) a partnership;

(E) a reciprocal exchange;

(F) an interinsurance exchange;

(G) a Lloyd's plan;

(H) a fraternal benefit society; and

(I) any other legal entity engaged in the business of insurance,

including:

(i) an agent;

(ii) a broker;

(iii) an adjuster; or

(iv) a life insurance counselor.

(c) ~~The commissioner [State Board of Insurance]~~ shall promulgate rules defining insurance exchanges and syndicates covered by Subsection (a)(1) of this section.

(d) The venue of an act described by Subsection (a)(1) of this section that is committed by mail is in the location where the matter transmitted by mail is delivered and takes effect.

SECTION 4.03. Subsection (b), Section 3, Article 1.14-1, Insurance Code, is amended to read as follows:

(b) ~~A [No] person may not [or insurer shall] directly or indirectly engage in the [do any of the acts of an insurance] business of insurance [set forth in this Article]~~

except as provided by and in accordance with the specific authorization of statute. In respect to the insurance of subjects resident, located or to be performed within this state this section shall not prohibit the collection of premium or other acts performed outside of this state by persons or insurers authorized to do business in this state provided such transactions and insurance contracts otherwise comply with statute.

SECTION 4.04. Subsection (a), Section 13, Article 1.14-1, Insurance Code, is amended to read as follows:

(a) A person ~~[who violates Section 3(b) of this article]~~ commits an offense if the person engages in the business of insurance:

(1) without:

(A) holding a certificate of authority, license, or other authorization issued by the department; or

(B) having an exemption that is recognized by the department from the requirement to hold a certificate of authority, license, or other authorization issued by the department; or

(2) after the person's certificate of authority, license, or other authorization has been revoked or suspended by the commissioner.

ARTICLE 5. INSURANCE AVAILABILITY

SECTION 5.01. Section 4, Article 21.81, Insurance Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) Notwithstanding Section 5 of this article, an applicant is eligible for insurance through the association if the applicant and servicing agent certify that the applicant is unable to find coverage at a rate that is within the benchmark flexibility band, pursuant to Article 5.101 of this code, and the applicant is a good driver. Such an applicant shall be charged a rate for coverage that does not exceed a rate that is greater than the midway point between 115 percent of the benchmark rate promulgated pursuant to Article 5.101 of this code and the rate promulgated under Section 5 of this article. The commissioner may make rules to implement this section.

(d) In this section, a "good driver" means an individual who:

(1) is over the age of:

(A) if male, 25 years of age; and

(B) if female, 21 years of age;

(2) has been licensed for at least three years to drive the type of motor vehicle to be insured;

(3) during the previous three years, has not:

(A) been at fault in a motor vehicle accident that resulted in bodily injury, death, or property damage;

(B) been convicted of a violation of a traffic safety regulation that involved a moving vehicle; or

(C) been convicted of an offense under Section 49.04, Penal Code, or Section 106.041, Alcoholic Beverage Code;

(4) has never made a fraudulent insurance claim; and

(5) does not drive a sports or high-performance vehicle.

ARTICLE 6. REPEALER

SECTION 6.01. The following laws are repealed:

(1) Subsection (a), Section 3, Article 1.14-1, Insurance Code;

(2) Subsection (c), Section 13, Article 1.14-1, Insurance Code;

(3) Section 601.053, Transportation Code;

(4) Section 601.193, Transportation Code;

(5) Subchapter H, Chapter 601, Transportation Code; and

(6) Subchapter I, Chapter 601, Transportation Code.

ARTICLE 7. TRANSITION; EFFECTIVE DATE; EMERGENCY

SECTION 7.01. (a) The change in law made by this Act to Section 13, Article 1.14-1, Insurance Code, and to Chapter 601, Transportation Code, applies only to 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 that date.

(b) An offense committed under Section 13, Article 1.14-1, Insurance Code, before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 7.02. Article 5.06-1, Insurance Code, as amended by this Act, applies only to a motor vehicle liability insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2000. A policy that is delivered, issued for delivery, or renewed before January 1, 2000, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 7.03. Subsections (c) and (d), Section 4, Article 21.81, Insurance Code, as added by this Act, apply only to a motor vehicle liability insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2001. A policy that is delivered, issued for delivery, or renewed before January 1, 2001, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 7.04. The provisions of Subsections (c) and (d), Section 4, Article 21.81, Insurance Code, as added by this Act, expire January 1, 2003.

SECTION 7.05. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1999.

(b) Article 1 of this Act takes effect January 1, 2001.

SECTION 7.06. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

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

HB 2031 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2031 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2031** be placed on its third reading and final passage.

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

Absent-excused: Luna.

HB 2031 was read third time and was passed by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 2599

Senator Duncan 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 **HB 2599** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 2599** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Duncan, Chair; Brown, Haywood, Armbrister, and Lucio.

SENATE BILL 315 WITH HOUSE AMENDMENT

Senator Ellis called **SB 315** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 315** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to authorizing the use of certain prepaid tuition contracts to cover an additional period of attendance at an institution of higher education or attendance at a proprietary school.

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

SECTION 1. Section 54.6001, Education Code, is amended to read as follows:

Sec. 54.6001. **PUBLIC PURPOSE.** An educated population being necessary to the social development and economic health of this state, the legislature finds and declares it to be an urgent public necessity to assist young Texans in obtaining a higher education. Because the state's population is rapidly growing and is diverse, the state is required to use all of the higher education facilities and resources within the state, both public and private, to provide a wide variety of educational environments and instructional options and to preserve the partnership between the state and private or independent institutions of higher education and between the state and proprietary schools, as defined by Section 132.001, that offer a two-year associate degree as approved by the Texas Higher Education Coordinating Board. Therefore, the prepaid higher education tuition program is established to help Texas students attend the institution that best meets their individual needs.

SECTION 2. Section 54.601, Education Code, is amended to read as follows:

Sec. 54.601. **DEFINITIONS.** In this subchapter:

(1) "Beneficiary" means a person who is entitled to receive benefits under a prepaid tuition contract.

(2) "Board" means the Prepaid Higher Education Tuition Board.

(3) "Estimated average private tuition and required fees" means an estimated average of tuition and required fees to be charged by private or independent institutions of higher education as determined annually by the board.

(4) "Fund" means the Texas tomorrow fund.

(5) "Institution of higher education" has the meaning assigned by Section 61.003.

(6) "Prepaid tuition contract" means a contract entered into under this subchapter by the board and a purchaser to provide for the payment of higher education tuition and required fees of a beneficiary.

(7) "Private or independent institution of higher education" has the meaning assigned by Section 61.003.

(8) "Program" means the prepaid higher education tuition program.

(9) "Proprietary school" means a proprietary school, as defined by Section 132.001, that offers a two-year associate degree as approved by the Texas Higher Education Coordinating Board.

(10) "Public junior college" has the meaning assigned by Section 61.003.

(11) [~~(10)~~] "Public senior college or university" has the meaning assigned by Section 61.003.

(12) [~~(11)~~] "Purchaser" means a person who is obligated to make payments under a prepaid tuition contract.

SECTION 3. Subsection (a), Section 54.605, Education Code, is amended to read as follows:

(a) A prepaid tuition contract remains in effect after the program is terminated if, when the program is terminated, the beneficiary:

(1) has been accepted by or is enrolled in an institution of higher education, [~~or~~] a private or independent institution of higher education, or a proprietary school; or

(2) is projected to graduate from high school not later than the third anniversary of the date the program is terminated.

SECTION 4. Subsection (b), Section 54.618, Education Code, is amended to read as follows:

(b) The board may:

(1) adopt an official seal;

(2) adopt rules to implement this subchapter;

(3) sue and be sued;

(4) enter into contracts and other necessary instruments;

(5) enter into agreements or other transactions with the United States, state agencies, including institutions of higher education, private or independent institutions of higher education, proprietary schools, and local governments;

(6) appear in its own behalf before governmental agencies;

(7) contract for necessary goods and services and engage the services of private consultants, actuaries, trustees, records administrators, managers, legal counsel, and auditors for administrative or technical assistance;

(8) solicit and accept gifts, grants, loans, and other aid from any source or participate in any other way in any government program to carry out this subchapter;

(9) impose administrative fees;

(10) contract with a person to market the program;

(11) purchase liability insurance covering the board and employees and agents of the board; and

(12) establish other policies, procedures, and eligibility criteria to implement this subchapter.

SECTION 5. Section 54.619, Education Code, is amended by adding Subsection (h) to read as follows:

(h) Notwithstanding other provisions of this subchapter, any contract benefits purchased under this subchapter may be applied to the payment of tuition and required fees at a proprietary school as if the proprietary school were an institution of higher education or private or independent institution of higher education. On the purchaser's request, the board shall apply, in accordance with Section 54.628, any existing amount of prepaid tuition contract benefits to the payment of tuition and required fees at a proprietary school. The board is not responsible for the payment of tuition and

required fees at the proprietary school in excess of that amount. The board may adopt rules as necessary to implement this subsection.

SECTION 6. Subsection (a), Section 54.6252, Education Code, is amended to read as follows:

(a) The board may permit the purchaser of a prepaid tuition contract for a senior college plan or a private college plan at any time during which the contract is in effect and before the beneficiary graduates from high school to enter into a supplemental contract to prepay the tuition and required fees of the beneficiary for a number of undergraduate credit hours, in addition to the undergraduate credit hours included in the primary contract, equal to the number of credit hours purchased for one year under the primary contract. The additional credit hours must be for the same type of institution as the credit hours purchased under the primary contract.

SECTION 7. (a) The change in law made by this Act regarding the application of prepaid tuition contract benefits to the payment of tuition and required fees at a proprietary school applies to contract benefits purchased under Subchapter F, Chapter 54, Education Code, as amended by this Act, before, on, or after the effective date of this Act.

(b) Except as provided by Subsection (c) of this section, the amendment made by this Act to Section 54.6252, Education Code, does not apply to a prepaid tuition contract entered into before the effective date of this Act.

(c) The Prepaid Higher Education Tuition Board may permit the purchaser of a prepaid tuition contract entered into before the effective date of this Act to amend the contract to conform to Section 54.6252, Education Code, as amended by this Act. The board may require the purchaser to make increased or additional payments as necessary to compensate for any additional costs that the board estimates will be incurred under the contract because of the contract amendment.

SECTION 8. This Act takes effect September 1, 1999.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Ellis, the Senate concurred in the House amendment to **SB 315** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 610

Senator Carona 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 **HB 610** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 610** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Carona, Chair; Sibley, Fraser, Duncan, and Whitmire.

SENATE BILL 322 WITH HOUSE AMENDMENT

Senator Ellis called **SB 322** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 322** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to special license plates benefitting the Girl Scouts.

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

SECTION 1. Subchapter F, Chapter 502, Transportation Code, is amended by adding Section 502.2931 to read as follows:

Sec. 502.2931. GIRL SCOUT LICENSE PLATES. (a) The department shall issue specially designed Girl Scout license plates for passenger cars and light trucks.

(b) The license plates must include the words "Girl Scouts."

(c) The department shall design the license plates in consultation with the Girl Scout Councils of Texas.

(d) The department shall issue license plates under this section to a person who:

(1) applies to the county assessor-collector of the county in which the person resides on a form provided by the department; and

(2) pays an annual fee of \$30, in addition to the fee prescribed by Section 502.161 or Section 502.162, and, if personalized prestige license plates are issued, in addition to the fee prescribed by Section 502.251.

(e) The department shall deposit \$20 of each fee collected under this section to the credit of the Girl Scout account in the state treasury. Money in the account may be used by the Texas Higher Education Coordinating Board in making grants to benefit educational projects sponsored by the Girl Scout Councils of Texas.

(f) The remainder of each fee collected under this section, after deposit as provided by Subsection (e), shall be deposited to the credit of the state highway fund and may be used only to defray the cost of administering this section.

(g) If license plates issued under this section are lost, stolen, or mutilated, the owner of the vehicle for which the license plates were issued may obtain replacement license plates from the department by paying a replacement fee of \$5. If the owner of a vehicle registered under this section disposes of the vehicle during the registration year, the owner shall return the special license plates to the department.

SECTION 2. This Act takes effect September 1, 1999.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Ellis, the Senate concurred in the House amendment to **SB 322** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 1799

Senator Armbrister 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 **HB 1799** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 1799** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Jackson, Madla, Duncan, and Ratliff.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 167 ADOPTED

Senator Carona called from the President's table the Conference Committee Report on **SB 167**. The Conference Committee Report was filed with the Senate on Friday, May 7, 1999.

On motion of Senator Carona, the Conference Committee Report was adopted by a viva voce vote.

SENATE BILL 199 WITH HOUSE AMENDMENT

Senator Moncrief called **SB 199** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 199** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to management of real property and construction and management of certain improvements by the Texas Department of Mental Health and Mental Retardation.

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

SECTION 1. Section 533.005, Health and Safety Code, is amended to read as follows:

Sec. 533.005. EASEMENTS. ~~[(a)]~~ The department may grant a temporary or permanent easement or right-of-way on ~~[easements to construct water, natural gas, telephone, telegraph, or electric power lines across]~~ land held by the department. The department must grant an easement or right-of-way ~~[the easements]~~ on terms and conditions the department considers to be in the state's best interest.

~~[(b) The department may grant permanent and temporary easements and rights-of-way across department facility land as necessary to ensure the efficient and expeditious construction, improvement, renovation, use, and operation of the facility.]~~

SECTION 2. Section 533.084, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) The proceeds from the lease, transfer, or disposal of surplus real property, including any improvements, shall be deposited to the credit of the department in the Texas capital trust fund established under Chapter 2201, Government Code. The proceeds and any interest from the proceeds may be appropriated only[:

~~[(+) for improvements to the department's system of facilities[; and~~

~~[(2) to fund the community centers facilities construction and renovation fund for improvements and renovations authorized by Sections 534.023 and 534.024].~~

(e) Notwithstanding Subsection (c), the department may enter into a written agreement with the General Land Office to administer lease proposals. If the General Land Office administers a lease proposal under the agreement, notice that the property is offered for lease must be published in accordance with Section 32.107, Natural Resources Code.

SECTION 3. Section 533.087, Health and Safety Code, is amended by adding Subsection (g) to read as follows:

(g) Notwithstanding Subsections (a) and (b), the department may enter into a written agreement with the General Land Office to administer lease proposals. If the General Land Office administers a lease proposal under the agreement, notice that the property is offered for lease must be published in accordance with Section 32.107, Natural Resources Code.

SECTION 4. Sections 534.023-534.030, Health and Safety Code, are repealed.

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

The amendment was read.

Senator Moncrief moved to concur in the House amendment to **SB 199**.

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

Absent-excused: Luna.

SENATE BILL 682 WITH HOUSE AMENDMENT

Senator Duncan called **SB 682** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 682** by Duncan by adding Sec. 225.045 to read as follows: Sec. 225.045. Sergeant Joe Parks, Jr. Memorial Highway. (a) Farm-to-Market Road 457, from mile marker #648 to #677, located in the County of Matagorda, is now named Sergeant Joe Parks, Jr. Memorial Highway.

The amendment was read.

On motion of Senator Duncan, the Senate concurred in the House amendment to **SB 682** by a viva voce vote.

SENATE BILL 529 WITH HOUSE AMENDMENT

Senator Haywood called **SB 529** from the President's table for consideration of the House amendment to the bill.

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

Amendment No. 1

Amend **SB 529** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION ____. Section 74.507(b), Property Code, is amended to read as follows:

(b) The person who informs a potential claimant and by contract or other written agreement is to receive a percentage of the value of the property may not file or receive a form to claim [~~or act~~] on behalf of a claimant.

The amendment was read.

On motion of Senator Haywood, the Senate concurred in the House amendment to **SB 529** by a viva voce vote.

SENATE BILL 1235 WITH HOUSE AMENDMENT

Senator Nelson called **SB 1235** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1235**, in SECTION 2 of the bill, by striking "January 1, 2000" (House Committee Report, page 1, line 18) and substituting "January 1, 2003. A rule adopted by the director of the Department of Public Safety under this Act takes effect on January 1, 2003".

The amendment was read.

On motion of Senator Nelson, the Senate concurred in the House amendment to **SB 1235** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 1592

Senator Duncan 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 **HB 1592** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 1592** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Duncan, Chair; Armbrister, Ratliff, Haywood, and Lucio.

CONFERENCE COMMITTEE ON HOUSE BILL 2684

Senator Gallegos 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 **HB 2684** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 2684** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Gallegos, Chair; Madla, Lindsay, Nelson, and Nixon.

SENATE BILL 79 WITH HOUSE AMENDMENT

Senator Carona called **SB 79** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 79** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the employment and supervision of the executive director of the Texas Department of Housing and Community Affairs.

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

SECTION 1. Section 2306.036, Government Code, is amended to read as follows:

Sec. 2306.036. EMPLOYMENT OF DIRECTOR~~[APPOINTMENT; TERM]~~.
(a) With the approval of the governor, the board ~~[The governor]~~ shall employ a ~~[appoint the]~~ director to serve ~~[with the advice and consent of the senate. The director serves]~~ at the pleasure of the board ~~[governor during the governor's terms of office]~~.

(b) After the election of a governor who did not approve the director's employment under Subsection (a), that governor may remove the director and require the board to employ a new director in accordance with Subsection (a). The governor must act under this subsection before the 90th day after the date the governor takes office.

SECTION 2. Section 2306.037, Government Code, is amended to read as follows:

Sec. 2306.037. DIRECTOR'S COMPENSATION. The board ~~[governor]~~ shall set the salary of the director.

SECTION 3. Section 2306.038, Government Code, is amended to read as follows:

Sec. 2306.038. ACTING DIRECTOR. The board ~~[governor]~~ shall establish a procedure for designating an acting director and shall, with the approval of the governor, immediately designate an acting director or a new permanent director if the position becomes vacant because of absence or disability. A director designated under

this section serves at the pleasure of the board but is subject to removal by a newly elected governor in accordance with Section 2306.036(b).

SECTION 4. Section 2306.052(b), Government Code, is amended to read as follows:

(b) The director shall:

(1) administer and organize the work of the department consistent with this chapter and with sound organizational management that promotes efficient and effective operation;

(2) appoint and remove personnel employed by the department;

(3) submit, through and with the approval of the governor, requests for appropriations and other money to operate the department;

(4) administer all money entrusted to the department;

(5) administer all money and investments of the department subject to:

(A) department indentures and contracts;

(B) Sections 2306.118 through 2306.120; and

(C) an action of the board under Section 2306.351; and

(6) perform other functions that may be assigned by the board or the governor.

SECTION 5. As soon as possible after the effective date of this Act, the governing board of the Texas Department of Housing and Community Affairs shall employ a person to serve as executive director of that department, as authorized by Section 2306.036, Government Code, as amended by this Act. The person serving as executive director or acting executive director immediately before the effective date of this Act may continue to serve at the pleasure of the governor until the date on which the person employed by the board assumes the duties of executive director.

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

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 79**.

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

Absent-excused: Luna.

CONFERENCE COMMITTEE ON HOUSE BILL 2130

Senator Nixon 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 **HB 2130** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 2130** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Nixon, Chair; Sibley, Ellis, Harris, and West.

SENATE BILL 23 WITH HOUSE AMENDMENT

Senator Nelson called **SB 23** from the President's table for consideration of the House amendment to the bill.

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

Amendment No. 1

Amend **SB 23** as follows:

- (1) On page 1, line 9, strike "until" and substitute "up to".
- (2) On page 1, line 10, between "day" and "after", add "but not less than 31 days".

The amendment was read.

On motion of Senator Nelson, the Senate concurred in the House amendment to **SB 23** by a viva voce vote.

SENATE BILL 139 WITH HOUSE AMENDMENT

Senator Moncrief called **SB 139** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 139** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to residential fire suppression devices and to an insurance premium discount for the installation of such a device.

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

SECTION 1. Subchapter C, Chapter 5, Insurance Code, is amended by adding Article 5.33C to read as follows:

Art. 5.33C. REDUCTION IN HOMEOWNERS INSURANCE AND FIRE INSURANCE PREMIUMS FOR APPROVED FIRE SUPPRESSION DEVICES

Sec. 1. DEFINITIONS. In this article:

(1) "Stovetop fire suppression device" means a device or assembly of devices that is mounted to the vent hood over a residential stovetop cooking surface and that protects against one or more hazards through suppressing or extinguishing fires.

(2) "Homeowners insurance" has the meaning assigned by Section 1, Article 5.33B of this code, as added by Chapter 337, Acts of the 74th Legislature, Regular Session, 1995.

Sec. 2. ELIGIBILITY FOR PREMIUM REDUCTION. A policyholder of a single-family or multifamily dwelling, apartment owner, or condominium owner is eligible for a premium reduction for homeowners insurance coverage, fire or commercial fire insurance coverage if the policyholder has correctly installed on the

covered property a stovetop fire suppression device that has been approved by the State Fire Marshal through the commissioner.

Sec. 3. PREMIUM DISCOUNT

(1) An insurer who delivers or issues for delivery a homeowners, fire, or commercial fire insurance policy may grant a discount in the premiums charged for a dwelling, apartment, or condominium that has a correctly installed and functioning stovetop fire suppressive device in each dwelling, apartment, or condominium.

(2) The commissioner shall establish by rule the amount of discount applicable under this article. The commissioner may adopt rules necessary for the implementation of this article.

SECTION 2. (a) This Act takes effect September 1, 1999.

(b) Article 5.33C, Insurance Code, as added by this Act, applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2000. A policy that is delivered, issued for delivery, or renewed before January 1, 2000, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Moncrief, the Senate concurred in the House amendment to **SB 139** by a viva voce vote.

SENATE BILL 1587 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 1587** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1587** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the detection of fraud, waste, and abuse in the state Medicaid program.

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

SECTION 1. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Sections 32.0242 and 32.0243 to read as follows:

Sec. 32.0242. VERIFICATION OF CERTAIN INFORMATION. To the extent possible, the department shall verify an applicant's residential address at the time the application for medical assistance is filed.

Sec. 32.0243. PERIODIC REVIEW OF ELIGIBILITY FOR CERTAIN RECIPIENTS. (a) The department, in cooperation with the United States Social Security Administration, shall periodically review the eligibility of a recipient of medical assistance who is eligible on the basis of the recipient's eligibility for Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq., as amended.

(b) In reviewing the eligibility of a recipient as required by Subsection (a), the department shall ensure that only recipients who reside in this state and who continue to be eligible for Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq., as amended, remain eligible for medical assistance.

SECTION 2. Subsection (a), Section 403.026, Government Code, as added by Chapter 1153, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

(a) The comptroller, in consultation with the state auditor's office, shall conduct a study each biennium to determine:

(1) the number and type of potential fraudulent claims for medical or health care benefits submitted:

(A) [(+)] under the state Medicaid program;

(B) [(2)] under group health insurance programs administered through the Employees Retirement System of Texas for active and retired state employees; or

(C) [(3)] by or on behalf of a state employee and administered by the attorney general under Chapter 501, Labor Code; and

(2) the need for changes to the eligibility system used under the state Medicaid program.

SECTION 3. Section 531.102, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The commission by rule shall set specific claims criteria that, when met, require the office to begin an investigation.

SECTION 4. Subchapter C, Chapter 531, Government Code, is amended by adding Sections 531.109, 531.110, and 531.111 to read as follows:

Sec. 531.109. SELECTION AND REVIEW OF CLAIMS. (a) The commission shall annually select and review a random, statistically valid sample of all claims for reimbursement under the state Medicaid program, including the vendor drug program, for potential cases of fraud, waste, or abuse.

(b) In conducting the annual review of claims under Subsection (a), the commission may directly contact a recipient by telephone or in person, or both, to verify that the services for which a claim for reimbursement was submitted by a provider were actually provided to the recipient.

(c) Based on the results of the annual review of claims, the commission shall determine the types of claims at which commission resources for fraud and abuse detection should be primarily directed.

Sec. 531.110. ELECTRONIC DATA MATCHING PROGRAM. (a) The commission shall conduct electronic data matches for a recipient of assistance under the state Medicaid program at least quarterly to verify the identity, income, employment status, and other factors that affect the eligibility of the recipient.

(b) To verify eligibility of a recipient for assistance under the state Medicaid program, the electronic data matching must match information provided by the recipient with information contained in databases maintained by appropriate federal and state agencies.

(c) The Texas Department of Human Services shall cooperate with the commission by providing data or any other assistance necessary to conduct the electronic data matches required by this section.

(d) The commission may contract with a public or private entity to conduct the electronic data matches required by this section.

(e) The commission, or a health and human services agency designated by the commission, by rule shall establish procedures to verify the electronic data matches conducted by the commission under this section. Not later than the 20th day after the date the electronic data match is verified, the Texas Department of Human Services shall remove from eligibility a recipient who is determined to be ineligible for assistance under the state Medicaid program.

(f) The commission shall report biennially to the legislature the results of the electronic data matching program. The report must include a summary of the number of applicants who were removed from eligibility for assistance under the state Medicaid program as a result of an electronic data match conducted under this section.

Sec. 531.111. FRAUD DETECTION TECHNOLOGY. The commission may contract with a contractor who specializes in developing technology capable of identifying patterns of fraud exhibited by Medicaid recipients to:

(1) develop and implement the fraud detection technology; and

(2) determine if a pattern of fraud by Medicaid recipients is present in the recipients' eligibility files maintained by the Texas Department of Human Services.

SECTION 5. The Health and Human Services Commission, in cooperation with the office of inspector general of the Texas Department of Human Services, shall study and consider for implementation fraud detection technology or any other technology that can identify information in the eligibility file of a Medicaid recipient that indicates potential fraud and the need for further investigation.

SECTION 6. (a) Not later than December 31, 2000, the Texas Department of Health shall obtain a compliance report from its existing contractor responsible for implementation of a Medicaid claims payment system to:

(1) ensure the smooth and timely payment of claims;

(2) ensure accuracy of claims payments; and

(3) eliminate inconsistencies in the payment system.

(b) The contractor under Subsection (a) must follow a structured change management process to ensure that all state agencies impacted by the Medicaid claims payment system have input into issues regarding implementation and any future change to the operation of the system.

SECTION 7. (a) Not later than October 1, 2000, the Texas Department of Human Services shall develop a Medicaid eligibility confirmation letter that is not easily duplicated. The department shall begin using the confirmation letter in place of the Medicaid eligibility confirmation letter used on the effective date of this Act to reduce fraudulent use of duplicate letters to receive assistance under the state Medicaid program. The confirmation letter developed under this subsection must be used until a permanent system for eligibility confirmation is implemented.

(b) The interagency task force on electronic benefits transfers shall conduct a study to identify and consider for implementation alternative methods, including electronic methods, for use by a recipient to prove eligibility under the state Medicaid program to a provider. In identifying alternative methods, the task force shall consider the methods for proving eligibility implemented by other states.

(c) Not later than September 1, 2000, the interagency task force on electronic benefits transfers shall report the results of the study conducted under Subsection (b) of this section to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the senate and house of representatives with primary jurisdiction over human services. The report must make

a recommendation regarding the implementation of a permanent system for Medicaid eligibility confirmation for use by a recipient to prove eligibility under the state Medicaid program to a provider. The recommended system must be designed to reduce the potential for fraudulent claims of eligibility.

(d) The Health and Human Services Commission shall submit a biennial report to the legislature regarding the effectiveness of any alternative method for proof of eligibility under the state Medicaid program implemented by the Texas Department of Human Services in reducing incidences of fraudulent claims of eligibility under the state Medicaid program.

SECTION 8. Not later than October 1, 2000, the Texas Department of Human Services shall begin the first review of eligibility for recipients of medical assistance required by Section 32.0243, Human Resources Code, as added by this Act.

SECTION 9. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 10. This Act takes effect September 1, 1999.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Zaffirini, the Senate concurred in the House amendment to **SB 1587** by a viva voce vote.

SENATE BILL 590 WITH HOUSE AMENDMENT

Senator Truan called **SB 590** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 590** by adding the following appropriately numbered SECTION and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Not later than August 31, 2000, the Texas Higher Education Coordinating Board shall prepare an impact statement examining the initial implementation of this Act and shall deliver a copy of the statement to the board of regents of The Texas A&M University System and to the chairs of the standing committees of each house of the legislature with primary jurisdiction over higher education.

The amendment was read.

Senator Truan moved to concur in the House amendment to **SB 590**.

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

Absent-excused: Luna.

SENATE BILL 627 WITH HOUSE AMENDMENT

Senator Truan called **SB 627** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 627** in SECTION 1 of the bill, Subsection (b), Section 13.303, Parks and Wildlife Code (Senate engrossment, page 1, line 19), by striking "mitigate" and substituting "minimize".

The amendment was read.

On motion of Senator Truan, the Senate concurred in the House amendment to **SB 627** by a viva voce vote.

SENATE BILL 76 WITH HOUSE AMENDMENT

Senator Truan called **SB 76** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 76** as follows:

On page 1, line 16, strike the following language:

The model must be capable of evaluating the effects of allowing cities on the Rio Grande to receive credit for wastewater flows that are returned to the river.

The amendment was read.

Senator Truan moved to concur in the House amendment to **SB 76**.

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

Absent-excused: Luna.

CONFERENCE COMMITTEE ON HOUSE BILL 1620

Senator Fraser 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 **HB 1620** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 1620** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Fraser, Chair; Shapiro, Duncan, Lucio, and Ellis.

SENATE BILL 640 WITH HOUSE AMENDMENT

Senator Fraser called **SB 640** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 640** in SECTION 1 of the bill, in added Section 2165.006, Government Code (House committee printing, page 1, line 7), by striking "189" and substituting "902".

The amendment was read.

Senator Fraser moved to concur in the House amendment to **SB 640**.

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

Absent-excused: Luna.

SENATE BILL 1234 WITH HOUSE AMENDMENT

Senator Nelson called **SB 1234** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1234** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the expansion and funding of the Texas Integrated Funding Initiative of the Health and Human Services Commission.

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

SECTION 1. Chapter 531, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. DEVELOPING LOCAL MENTAL HEALTH
CARE SYSTEMS FOR CERTAIN CHILDREN

Sec. 531.251. PILOT PROJECT CONSORTIUM; EXPANSION PLAN. (a) The commission shall form a consortium to develop criteria for and implement the expansion of the Texas Integrated Funding Initiative pilot project and to develop local mental health care systems in communities for minors who are receiving residential mental health services or who are at risk of residential placement to receive mental health services. The consortium must include representatives of the Texas Department of Mental Health and Mental Retardation, Department of Protective and Regulatory Services, Texas Education Agency, Texas Youth Commission, Texas Juvenile Probation Commission, and Texas Commission on Alcohol and Drug Abuse and an equal number of family advocates.

(b) The commission and the consortium shall:

(1) develop a model and guidelines for the delivery of mental health services and support to a minor, initiated before the person's 18th birthday, including best practices in the financing, administration, governance, and delivery of those services;

(2) establish a plan to expand the Texas Integrated Funding Initiative so that the initiative may operate in up to six communities; and

(3) identify appropriate sources of state and federal funding to finance mental health services under the initiative from a central fund for expansion communities.

Sec. 531.252. PROPOSALS FOR EXPANSION COMMUNITIES. (a) The commission by rule shall establish a request-for-proposal process to select expansion communities to participate in the initiative.

(b) The commission and the consortium shall develop criteria to evaluate proposals for selecting expansion communities to participate in the expanded initiative. The criteria must:

(1) reflect the underlying principles of the Texas Integrated Funding Initiative;

(2) emphasize services that are culturally competent, family-centered, and seamless;

(3) identify populations to be served under the proposals;

(4) establish for the expansion communities service outcome goals related to minors who are receiving residential mental health services or who are at risk of residential placement to receive mental health services, including:

(A) decreasing incidents of abuse or neglect of the minors;

(B) reducing recidivism rates of juvenile offenders;

(C) increasing school attendance and progress of the minors;

(D) reducing the rate of placement of the minors in residential treatment;

(E) increasing the rate of reunification of the minors with their families;

(F) improving the emotional, behavioral, and social adjustment of the minors; and

(G) improving the stability of placements of the minors;

(5) provide for locations of participating communities in urban, suburban, and rural settings; and

(6) specify information that must be provided in a proposal for a community, including:

(A) information on the costs of the activities proposed; and

(B) the characteristics of minors in the community who are in residential care for mental health services or who are at risk of being placed in residential care to receive mental health services.

(c) Populations to be served, as identified under Subsection (b)(3), must include youth at risk of residential placement, incarceration, or reincarceration because of severe emotional disturbance, including:

(1) students in a special education program under Subchapter A, Chapter 29, Education Code; and

(2) youth with a severe emotional disturbance and a co-occurring:

(A) substance abuse disorder; or

(B) developmental disability.

(d) Outcome criteria established under Subsection (b)(4) must be consistent with outcome measures used in evaluations of individualized children's services projects in other states.

Sec. 531.253. SELECTION OF EXPANSION COMMUNITIES. The commission and the consortium shall review proposals for expansion communities and approve participation of not more than six communities to participate in the initiative. The selected communities must be those that best meet the criteria developed under Section 531.252.

Sec. 531.254. SYSTEM DEVELOPMENT COLLABORATION. The commission, the consortium, and the expansion communities shall collaborate to develop and shall share technical assistance and training resources to aid communities in developing local systems for delivering mental health services to minors.

Sec. 531.255. EVALUATION. (a) The commission and the Texas Department of Mental Health and Mental Retardation jointly shall monitor the progress of the expansion communities.

(b) The commission, the consortium, and the expansion communities shall collaborate to develop a system to evaluate the success of the expansion communities in achieving outcome goals for the minors the communities serve, including outcome goals developed under Section 531.252. An evaluation under the system must include information on cost avoidance and net savings that result from participation in the initiative.

(c) Each expansion community shall identify the baseline information to compare with the information on outcomes in evaluating the achievements of the community. A community is responsible for collecting and reporting outcome information to the commission in accordance with the requirements of the evaluation system developed under Subsection (b).

(d) To the extent practicable, an expansion community shall use instruments to measure outcomes that have known reliability and validity and that allow comparisons with similar projects in other states and with national evaluation efforts.

Sec. 531.256. MENTAL HEALTH SERVICES FOR YOUTH GRANTS. (a) The commission shall expand the Texas Integrated Funding Initiative pilot project so that, on or before September 1, 2001, the initiative is able to award grants to community projects for mental health services for youth.

(b) The commission by rule shall develop criteria for awarding grants under this section that will encourage a community to establish services and programs that suit the mental health services needs of minors of the community.

(c) The grants may be paid from the fund developed for the Texas Integrated Funding Initiative. The commission may establish and identify money for related projects.

Sec. 531.257. TECHNICAL ASSISTANCE FOR GRANT PROJECTS. The commission may provide technical assistance to a community that receives a grant under Section 531.256.

Sec. 531.258. STATEWIDE EVALUATION SYSTEM. The commission shall develop an evaluation system to measure outcomes of the Texas Integrated Funding Initiative.

SECTION 2. (a) The Department of Protective and Regulatory Services, Texas Education Agency, Texas Department of Mental Health and Mental Retardation, Texas Youth Commission, Texas Commission on Alcohol and Drug Abuse, and Texas Juvenile Probation Commission each shall transfer to the Health and Human Services Commission \$30,000 in fiscal year 2000 and \$70,000 in fiscal year 2001 to finance the Texas Integrated Funding Initiative.

(b) The Health and Human Services Commission shall promote the participation of new communities in and projects for the Texas Integrated Funding Initiative to attract matching funds and local participation.

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

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 1234**.

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

Absent-excused: Luna.

SENATE BILL 1340 WITH HOUSE AMENDMENT

Senator Carona called **SB 1340** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1340** as follows:

(1) In SECTION 2 of the bill, in added Section 7.03(3), Medical Practice Act, insert the following between "licensed hospital" and the semicolon (engrossed version, page 3, line 8):

", including an outpatient facility of the hospital that is separately located apart from the hospital".

(2) In SECTION 2 of the bill, in added Section 7.03, Medical Practice Act, insert the following as a new Subdivision (6) of Section 7.03 (engrossed version, page 3, between lines 15 and 16) and renumber the existing Subdivisions (6) and (7) of Section 7.03 appropriately (engrossed version, page 3, lines 16 and 19):

"(6) a facility maintained or operated by a state or local governmental entity;".

(3) In SECTION 4 of the bill, in added Section 3(3), Article 4527e, Revised Statutes, insert the following between "licensed hospital" and the semicolon (engrossed version, page 8, line 22):

", including an outpatient facility of the hospital that is separately located apart from the hospital".

(4) In SECTION 4 of the bill, in added Section 3, Article 4527e, Revised Statutes, insert the following as a new Subdivision (6) of Section 3 (engrossed version, page 9, between lines 3 and 4) and renumber the existing Subdivisions (6) and (7) of Section 3 appropriately (engrossed version, page 9, lines 4 and 7):

"(6) a facility maintained or operated by a state or local governmental entity;".

The amendment was read.

On motion of Senator Carona, the Senate concurred in the House amendment to **SB 1340** by a viva voce vote.

SENATE BILL 99 WITH HOUSE AMENDMENTS

Senator Carona called **SB 99** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 99** as follows:

(1) In SECTION 1 of the bill, in added Section 81.095(a), Health and Safety Code (Engrossed version, lines 8 through 9), strike "the hospital," and substitute "state medical school, or state teaching hospital, the facility,".

(2) In SECTION 1 of the bill, in added Section 81.095(b), Health and Safety Code (Engrossed version, line 12), strike "hospital" and substitute "facility".

(3) In SECTION 1 of the bill, in added Section 81.095(c), Health and Safety Code (Engrossed version, line 15), strike "hospital" and substitute "facility".

Floor Amendment No. 2

Amend **SB 99** by striking Subsection (a), Section 81.095, Health and Safety Code, as added by SECTION 1 of the bill (lines 6-11, senate engrossment) and substituting the following:

(a) In a case of accidental exposure of a health care worker to blood or other body fluids of a patient in a licensed hospital, the hospital, following a report of the exposure incident, shall take reasonable steps to test the patient for hepatitis B or hepatitis C. A test conducted under this section may be performed without the patient's specific consent.

The amendments were read.

On motion of Senator Carona, the Senate concurred in the House amendments to **SB 99** by a viva voce vote.

SENATE BILL 1197 WITH HOUSE AMENDMENT

Senator Moncrief called **SB 1197** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1197** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the appointment of a trustee and the expenditure of emergency assistance funds for a nursing or convalescent home; providing penalties.

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

SECTION 1. Subchapter D, Chapter 242, Health and Safety Code, is amended by adding Sections 242.0945 and 242.0946 to read as follows:

Sec. 242.0945. QUALIFICATIONS OF TRUSTEES. (a) A court may appoint a person to serve as a trustee under this subchapter only if the proposed trustee can demonstrate to the court that the proposed trustee will be:

(1) present at the home as required to perform the duties of a trustee; and
(2) available on call to appropriate staff at the home, the department, and the court as necessary during the time the trustee is not present at the home.

(b) A trustee shall report to the court in the event that the trustee is unable to satisfy the requirements of Subsection (a)(1) or (2).

(c) On the motion of any party or on the court's own motion, the court may replace a trustee who is unable to satisfy the requirements of Subsection (a)(1) or (2).

(d) A trustee's charges must separately identify personal hours worked for which compensation is claimed. A trustee's claim for personal compensation may include only compensation for activities related to the trusteeship and performed in or on behalf of the home.

Sec. 242.0946. NEPOTISM PROHIBITION. A person serving as a trustee under this subchapter may not employ or otherwise appoint an individual to work with the trustee in the home who is related to the trustee within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code.

SECTION 2. Subsection (a), Section 242.095, Health and Safety Code, is amended to read as follows:

(a) A trustee appointed under this subchapter is entitled to a reasonable fee as determined by the court. In determining the trustee's personal compensation for nursing facility administrator activities, the court shall consider reasonable a rate that is equal to 150 percent of the maximum allowable rate for an owner-administrator under the state's Medicaid reimbursement rules. The court shall determine the reasonableness of the trustee's personal compensation for other duties. On the motion of any party, the court shall review the reasonableness of the trustee's fees. The court shall reduce the amount if the court determines that the fees are not reasonable.

SECTION 3. Subchapter D, Chapter 242, Health and Safety Code, is amended by adding Section 242.102 to read as follows:

Sec. 242.102. INELIGIBILITY FOR LICENSE. (a) A license holder or controlling person who operates a home for which a trustee is appointed under this subchapter and with respect to which emergency assistance funds, other than funds used to pay the expenses of the trustee, are used under this subchapter is subject to exclusion from eligibility for:

(1) issuance of an original license for a home for which the person has not previously held a license; or

(2) renewal of the license for the home for which the trustee is appointed.

(b) Exclusion under this section is governed by Section 242.0615.

SECTION 4. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.48 to read as follows:

Sec. 12.48. CERTAIN OFFENSES RESULTING IN LOSS TO NURSING AND CONVALESCENT HOMES. If it is shown on the trial of an offense under Chapter 31 or 32 that, as a result of a loss incurred because of the conduct charged, a trustee was appointed and emergency assistance funds, other than funds used to pay the expenses of the trustee, were used for a nursing or convalescent home under Subchapter D, Chapter 242, Health and Safety Code, the punishment for the offense is increased to the punishment prescribed for the next higher category of offense except that a felony of the first degree is punished as a felony of the first degree.

SECTION 5. This Act takes effect September 1, 1999.

SECTION 6. (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 covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Moncrief, the Senate concurred in the House amendment to **SB 1197** by a viva voce vote.

SENATE BILL 613 WITH HOUSE AMENDMENT

Senator Carona called **SB 613** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 613** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the disclosure of certain records maintained or obtained by the comptroller of public accounts.

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

SECTION 1. Section 2101.037, Government Code, is amended by adding Subsection (c) to read as follows:

(c) It is an affirmative defense to prosecution under Section 552.352(a) that the comptroller, the project director, or another officer or employee of the comptroller acted in reliance on a determination made by a state agency about the confidentiality of information supplied by the agency to the project director under Subsection (b).

SECTION 2. Section 111.006, Tax Code, is amended by amending Subsection (a) and adding Subsections (f) and (g) to read as follows:

(a) The following matter is confidential and may not be used publicly, opened to public inspection, or disclosed except as permitted by this section [~~under Subsection (b), (d), or (e)~~]:

(1) a federal tax return or federal tax return information required to have been submitted to the comptroller with a state tax return or report; and

(2) all information secured, derived, or obtained by the comptroller or the attorney general during the course of an examination of the taxpayer's books, records, papers, officers, or employees, including an examination of the business affairs, operations, source of income, profits, losses, or expenditures of the taxpayer.

(f) Subsection (a)(2) does not apply to information obtained by the comptroller or the attorney general during an examination of a governmental body, as that term is defined in Section 552.003, Government Code. However, information obtained by the comptroller or the attorney general during an examination of the governmental body

that is confidential under law when in the possession of the governmental body remains confidential while in the possession of the comptroller or the attorney general.

(g) Information made confidential by Subsection (a)(2) that relates to a taxpayer's responsibilities under Chapter 153 may be examined by an official of another state or of the United States if:

(1) the official has information that would assist the comptroller in administering Chapter 153;

(2) the comptroller is conducting or may conduct an examination or a criminal investigation of the taxpayer that is the subject of the information made confidential by Subsection (a)(2); and

(3) a reciprocal agreement exists allowing the comptroller to examine information under the control of the official in a manner substantially equivalent to the official's access to information under this subsection.

SECTION 3. Subsection (c), Section 151.027, Tax Code, is amended to read as follows:

(c) This section does not prohibit:

(1) the examination of information, if authorized by the comptroller, by another state officer or law enforcement officer, by a tax official of another state, by a tax official of the United Mexican States, or by an official of the United States if a reciprocal agreement exists;

(2) the delivery to a taxpayer, or a taxpayer's authorized representative, of a copy of a report or other paper filed by the taxpayer under this chapter;

(3) the publication of statistics classified to prevent the identification of a particular report or items in a particular report;

(4) the use of records, reports, or information secured, derived, or obtained by the attorney general or the comptroller in an action under this chapter against the same taxpayer who furnished the information;

(5) the delivery to a successor, receiver, executor, administrator, assignee, or guarantor of a taxpayer of information about items included in the measure and amounts of any unpaid tax or amounts of tax, penalties, and interest required to be collected; [or]

(6) the delivery of information to an eligible municipality in accordance with Section 321.3022; or

(7) the release of information in or derived from a record, report, or other instrument required to be furnished under this chapter by a governmental body, as that term is defined in Section 552.003, Government Code.

SECTION 4. This Act takes effect September 1, 1999.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Carona, the Senate concurred in the House amendment to **SB 613** by a viva voce vote.

SENATE BILL 1525 WITH HOUSE AMENDMENTS

Senator Madla called **SB 1525** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 1525** by inserting the following in SECTION 2 of the bill at the end of proposed Subsection (d) of Section 6, Licensed Dietitian Act (Article 4512h, Vernon's Texas Civil Statutes) (House committee printing, page 2, line 9):

This subsection does not limit the authority of a person licensed to practice medicine from making a delegation authorized under Section 3.06(d), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

Floor Amendment No. 2

Amend **SB 1525** by inserting the following SECTION to the bill, appropriately numbered, and renumbering the SECTIONS of the bill accordingly:

SECTION ___. The Licensed Dietitian Act (Article 4512h, Vernon's Texas Civil Statutes) is amended by adding Section 15A to read as follows:

Sec. 15A. CONSTRUCTION OF ACT. (a) In this section, "giving advice concerning nutrition" or "providing nutritional advice" means giving information on the use and role of food and food ingredients, including dietary supplements.

(b) Subject to Section 15 of this Act, a person who gives advice concerning nutrition or provides nutritional advice, without receiving compensation for the advice, is not required to be licensed under this Act.

(c) This section does not grant a person authority to:

- (1) practice medicine or dietetics;
- (2) prevent, treat, or cure a disease, pain, injury, deformity, or physical or mental condition; or
- (3) represent that any product might cure a disease, disorder, or condition.

Floor Amendment No. 1 on Third Reading

Amend **SB 1525** on third reading as follows:

(1) Insert a new SECTION in the bill, appropriately numbered, as follows:

SECTION ___. Section 15, Licensed Dietitian Act (Article 4512h, Vernon's Texas Civil Statutes), is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Unless the person is licensed under this Act, a person may not for compensation provide nutrition services or hold that person out as authorized by law to provide nutrition services.

(d) A person commits an offense if the person knowingly or intentionally violates Subsection (a), [or] (b), or (c) of this section. An offense under this section is a Class B misdemeanor.

(2) Insert the following new SECTION to the bill, appropriately numbered:

SECTION ___. The Licensed Dietitian Act (Article 4512h, Vernon's Texas Civil Statutes) is amended by adding Section 15B to read as follows:

Sec. 15B. NUTRITION SERVICES EXEMPTIONS. This Act does not apply to the provision of nutrition services by:

(1) other licensed health care professionals, including physicians, dentists, chiropractors, registered nurses, and licensed vocational nurses, if the activities are permitted by the law under which the professional is licensed and the licensed professional does not represent that the professional is a licensed dietitian or authorized by law to provide nutrition services;

(2) a student, intern, or provisional licensed dietitian who is enrolled in training or in a course of study at a regionally accredited institution of higher education and who is under the supervision and direction of a licensed dietitian while engaged in activity related to the training or course of study;

(3) a dietetic technician or dietary manager while practicing under the supervision of a licensed dietitian;

(4) a person employed as a dietitian or nutritionist by a governmental agency or regionally accredited institution of higher education while the person is performing duties within the scope of the person's employment; or

(5) a person performing voluntary activities or who is acting within the scope of the person's employment by a charitable, nonprofit organization if the person does not represent that the person is a licensed dietitian or authorized by law to provide nutrition services.

(3) Renumber the SECTIONS of the bill accordingly.

The amendments were read.

Senator Madla 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 asked if there were any motions to instruct the conference committee on **SB 1525** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Madla, Chair; Nelson, Lindsay, Nixon, and Duncan.

CONFERENCE COMMITTEE ON HOUSE BILL 3778

Senator Gallegos 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 **HB 3778** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 3778** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Gallegos, Chair; Carona, Ogden, Whitmire, and Wentworth.

CONFERENCE COMMITTEE ON HOUSE BILL 3799

Senator Gallegos 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 **HB 3799** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 3799** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Gallegos, Chair; Ellis, Whitmire, Lindsay, and Jackson.

CONFERENCE COMMITTEE ON HOUSE BILL 846

Senator Brown 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 **HB 846** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 846** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chair; Armbrister, Bivins, Lucio, and Wentworth.

SENATE BILL 260 WITH HOUSE AMENDMENT

Senator Bivins called **SB 260** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 260** on page 2, line 6 by adding "3" after "Subsection (b)".

The amendment was read.

Senator Bivins moved to concur in the House amendment to **SB 260**.

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

Absent-excused: Luna.

SENATE BILL 1547 WITH HOUSE AMENDMENT

Senator Bivins called **SB 1547** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1547** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the collection of the tax on motor fuels; providing penalties.

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

SECTION 1. Section 153.001, Tax Code, is amended by amending Subdivisions (8) and (19) and adding Subdivisions (28) through (36) to read as follows:

(8) "Diesel tax prepaid user" means a person:

(A) whose purchases of diesel fuel are predominantly for agricultural nonhighway use;

(B) whose only diesel-powered motor vehicles are passenger cars or light trucks; and

(C) who elects to prepay an annual diesel fuel tax to the comptroller on each diesel-powered motor vehicle.

(19) "Motor fuel" includes gasoline, diesel fuel, liquefied gas, and other products that are offered for sale, sold, or used [usable] as propellants of a motor vehicle.

(28) "Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid produced by a blending process, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be offered for sale, sold, or used as a fuel in a motor vehicle.

(29) "Blending" means the mixing together of one or more products with other products to produce a product that is offered for sale, sold, or used as a motor fuel. The term does not include the blending that may occur during the refining process by the original refiner of crude petroleum or the commingling of products during transportation in a pipeline.

(30) "Diversion number" means the number assigned by the comptroller, or by a person to whom the comptroller delegates or appoints the authority to assign the number, that relates to a single cargo tank delivery of motor fuel that is diverted from the original destination state printed on the shipping document.

(31) "Dyed diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency and Internal Revenue Service rules or in accordance with other subsequent requirements prescribed by the agency or service, including any invisible marker requirements.

(32) "Export" means to deliver motor fuel to a point outside this state. For purposes of this definition, motor fuel delivered outside this state:

(A) by or for the seller constitutes an export by the seller; and

(B) by or for the purchaser constitutes an export by the purchaser.

(33) "Import" means to deliver motor fuel to a point inside this state from a point outside this state. For purposes of this definition, motor fuel delivered into this state from outside this state:

(A) by or for the seller constitutes an import by the seller; and

(B) by or for the purchaser constitutes an import by the purchaser.

(34) "Import verification number" means the number assigned by the comptroller, or by a person to whom the comptroller delegates or appoints the authority to assign the number, that relates to a single cargo tank delivery into this state from another state after a request for an assigned number by an importer or by the common or contract carrier carrying taxable motor fuel into this state for the account of an importer.

(35) "Shipping document" means a delivery document issued by a terminal or bulk plant operator in conjunction with the sale, transfer, or removal of motor fuel from the terminal or bulk plant.

(36) "Undyed diesel fuel" means diesel fuel that is not subject to the United States Environmental Protection Agency requirements or has not been dyed in accordance with the Internal Revenue Service fuel dyeing provisions.

SECTION 2. Subsection (a), Section 153.003, Tax Code, is amended to read as follows:

(a) All common and contract carriers operating in this state shall keep for four years, open to inspection by the comptroller, a complete and separate record of each intrastate and interstate transportation of motor fuel. The records of each intrastate and interstate transportation of motor fuel required under Subsection (b) shall be compiled into a report and supplements in a form or manner determined by the comptroller. On or before the 25th day of the month following the end of each calendar quarter, a common or contract carrier shall file a report showing complete and detailed information on the transportation of motor fuel during the preceding quarter. The report must be executed by the common or contract carrier or a representative of the carrier, and the penalties provided by this chapter apply to any violation relating to the report. The comptroller by rule shall determine the registration requirements for common or contract carriers transporting motor fuel.

SECTION 3. Subsection (d), Section 153.004, Tax Code, is amended to read as follows:

(d) Each person, other than a common carrier transporting motor fuel under this chapter, shall also carry a copy of the supplier, distributor, jobber, dyed diesel fuel bonded user, or agricultural bonded user permit, or proof of tax payment on the motor fuel being transported, unless the person is an end user transporting the person's own motor fuel purchased under a signed statement as provided by Section 153.205.

SECTION 4. Section 153.006, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) The comptroller may revoke a distributor's or supplier's permit if the distributor or supplier purchases, for export, motor fuel in this state on which the tax imposed by this chapter has not been paid and subsequently diverts or causes the fuel to be diverted to a destination in this state or to a destination in another state or country other than the originally designated state or country without first obtaining a diversion number.

SECTION 5. Section 153.010, Tax Code, is amended to read as follows:

Sec. 153.010. **AUTHORITY TO STOP AND EXAMINE.** In order to enforce the provisions of this chapter, the comptroller or a peace officer may stop a motor vehicle that appears to be operating with or transporting motor fuel in order to examine the shipping document, cargo manifest, or invoices required to be carried, examine a permit or copy of a permit that may be required to be carried, take samples from the fuel supply or cargo tanks, and make any other investigation that could reasonably be

made to determine whether the taxes have been paid or accounted for by a distributor, supplier, dealer, dyed diesel fuel bonded user, agricultural bonded user, jobber, or any person required to be so permitted. The comptroller, a peace officer, an employee of the attorney general's office, an employee of the Texas Natural Resource Conservation Commission, or an employee of the Department of Agriculture may take samples of motor fuel from any storage tank or container to:

- (1) determine if the fuel contains hazardous waste or is adulterated; or
- (2) allow the comptroller to determine whether taxes on the fuel have been paid or accounted for to this state.

SECTION 6. Subsection (a), Section 153.013, Tax Code, is amended to read as follows:

(a) A distributor, supplier, dealer, interstate trucker, jobber, dyed diesel fuel bonded user, or agricultural bonded user who fails to keep a record, issue an invoice, or file a report required by this chapter, is presumed to have sold or used for taxable purposes all motor fuel shown by an audit by the comptroller to have been sold to the distributor, supplier, dealer, interstate trucker, jobber, dyed diesel fuel bonded user, or agricultural bonded user. Motor fuel unaccounted for is presumed to have been sold or used for taxable purposes. The comptroller may fix or establish the amount of taxes, penalties, and interest due the state from the records of deliveries or from any records or information available to him. If a tax claim, as developed from this procedure, is not paid, after the opportunity to request a redetermination, the claim and any audit made by the comptroller or any report filed by the distributor, supplier, dealer, interstate trucker, jobber, dyed diesel fuel bonded user, or agricultural bonded user, are evidence in any suit or judicial proceedings filed by the attorney general, and are prima facie evidence of the correctness of the claim or audit. A prima facie presumption of the correctness of the claim may be overcome at the trial by evidence adduced by the distributor, supplier, dealer, interstate trucker, jobber, dyed diesel fuel bonded user, or agricultural bonded user.

SECTION 7. Subchapter A, Chapter 153, Tax Code, is amended by adding Section 153.018 to read as follows:

Sec. 153.018. IMPORTATION AND EXPORTATION OF MOTOR FUEL.
(a) A person may not import motor fuel to a destination in this state or export motor fuel to a destination outside this state by any means unless the person possesses a shipping document for that fuel created by the terminal or bulk plant at which the fuel was received. The shipping document must include:

(1) the name and physical address of the terminal or bulk plant from which the motor fuel was received for import or export;

(2) the name and federal employer identification number, or the social security number if the employer identification number is not available, of the carrier transporting the motor fuel;

(3) the date the motor fuel was loaded;

(4) the type of motor fuel;

(5) the number of gallons:

(A) in temperature-adjusted gallons if purchased from a terminal for export or import; or

(B) in temperature-adjusted gallons or in gross gallons if purchased from a bulk plant;

(6) the destination of the motor fuel as represented by the purchaser of the motor fuel and the number of gallons of the fuel to be delivered, if delivery is to only one state;

(7) the name, federal employer identification number, permit number, and physical address of the purchaser of the motor fuel;

(8) the name of the person responsible for paying the tax imposed by this chapter, as given to the terminal by the purchaser if different from the permitted supplier or distributor; and

(9) any other information that, in the opinion of the comptroller, is necessary for the proper administration of this chapter.

(b) The terminal or bulk plant shall provide the shipping documents to the importer or exporter.

(c) If motor fuel is to be delivered to more than one state, the terminal shall document the split loads by issuing shipping documents that list the destination state of each portion of the motor fuel.

(d) A terminal, a bulk plant, the carrier, the permitted distributor or supplier, and the person that received the motor fuel shall:

(1) retain a copy of the shipping document until at least the fourth anniversary of the date the fuel is received; and

(2) provide a copy of the document to the comptroller or any law enforcement officer not later than the 10th working day after the date a request for the copy is received.

(e) An importer or exporter shall keep in the person's possession the shipping document issued by the terminal or bulk plant when transporting motor fuel imported into this state or for export from this state. The importer or exporter shall show the document to the comptroller or a peace officer on request. The comptroller may delegate authority to inspect the document to other governmental agencies. The importer or exporter shall provide a copy of the shipping document to the person that receives the fuel when it is delivered.

(f) The importer or exporter may deliver motor fuel only to the destination state or states indicated on the shipping document.

(g) An importer or exporter who wants to divert the delivery of a single cargo tank of motor fuel from the destination state printed on the shipping document must obtain a diversion number from the comptroller before diverting the delivery. The importer, exporter, or common or contract carrier must write the diversion number on the shipping document issued for the fuel. A diversion number is required for each diverted delivery. The comptroller may appoint a person to assign diversion numbers or may delegate that authority to another person.

(h) An importer that acquires motor fuel for import by cargo tank must obtain an import verification number from the comptroller before importing the motor fuel. The importer must write the import verification number on the shipping document issued for the fuel. The importer must obtain a separate import confirmation number for each cargo tank delivery of motor fuel into this state. The comptroller may appoint a person to assign import verification numbers or may delegate that authority to another person.

(i) Each terminal shall post a notice in a conspicuous location proximate to the point of receipt of shipping papers that describes the duties of importers and exporters under this section. The comptroller may prescribe the language, type, style, and format of the notice.

SECTION 8. Subsection (e), Section 153.105, Tax Code, is amended to read as follows:

(e) The tax on two percent of the taxable gallons of gasoline sold in this state shall be allocated to the distributor making the first taxable sale or use of the gasoline and timely paying the tax to the state for the expenses of collecting, accounting for, reporting, and remitting the tax collected and for keeping records.

SECTION 9. Subsection (a), Section 153.112, Tax Code, is amended to read as follows:

(a) A distributor's permit is permanent and is valid so long as the permittee has in force and effect the required bond or security and furnishes timely reports and supplements as required, or until the permit is surrendered by the holder or canceled by the comptroller. The comptroller shall ~~may~~ cancel a distributor's permit if no purchase, sale, or use of gasoline has been reported by the distributor for the prior nine ~~12~~ months.

SECTION 10. Subsection (a), Section 153.117, Tax Code, is amended to read as follows:

(a) A distributor shall keep:

(1) a record showing the number of gallons of:

(A) ~~[(+)]~~ all gasoline inventories on hand at the first of each month;

(B) ~~[(2)]~~ all gasoline refined, compounded, or blended;

(C) ~~[(3)]~~ all gasoline purchased or received, showing the name of the seller and date of each purchase or receipt;

(D) ~~[(4)]~~ all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(E) ~~[(5)]~~ all gasoline lost by fire or other accident; and

(2) an itemized statement showing by load the number of gallons of all gasoline:

(A) received during the preceding calendar month for export and the location of the loading;

(B) exported from this state by destination state or country; and

(C) imported during the preceding calendar month by destination state or country.

SECTION 11. Subsection (a), Section 153.118, Tax Code, is amended to read as follows:

(a) On or before the 25th day of each month, a distributor or other person liable to this state for payment of the tax imposed under this chapter shall file all reports and supplements as required by the comptroller, and remit the amount of tax required to be collected during the preceding month. The report shall be executed by the distributor, the distributor's ~~or his~~ representative, or any other person required to report and shall be filed with the comptroller in a manner or on a form provided or approved by the comptroller, containing complete and detailed information not inconsistent with the requirements of this chapter of gasoline transactions. A distributor required to file a report under this section who has not sold or used any gasoline during the reporting period shall file with the comptroller the report setting forth the facts or information. The failure of a distributor or other person to obtain forms or software from the comptroller is no excuse for the failure to file a report containing all the information required to be reported.

SECTION 12. Section 153.203, Tax Code, is amended to read as follows:

Sec. 153.203. EXCEPTIONS. The tax imposed by this subchapter does not apply to:

(1) diesel fuel delivered by a permitted supplier to a common or contract carrier, oceangoing vessel (including ship, tanker, or boat), or barge for export from this state, if the diesel fuel is moved forthwith outside this state;

(2) diesel fuel sold by a permitted supplier to the federal government for its exclusive use;

(3) diesel fuel sold or delivered by a permitted supplier to another permitted supplier or to the bulk storage facility of an agricultural bonded user, or dyed diesel fuel sold or delivered by a permitted supplier to the bulk storage facility of a dyed diesel fuel bonded user, to the bulk storage facility of a diesel tax prepaid user, or to a purchaser who provides a signed statement as provided by Section 153.205 of this code, but not including a delivery of tax-free diesel fuel into the fuel supply tanks of a motor vehicle, except for a motor vehicle owned by the federal government;

(4) diesel fuel sold or delivered by a permitted supplier into the storage facility of a permitted aviation fuel dealer, from which diesel fuel will be sold or delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment;

(5) diesel fuel sold or delivered by a permitted supplier into fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(6) kerosene when delivered by a permitted supplier into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use;

(7) diesel fuel sold or delivered by one aviation fuel dealer to another aviation fuel dealer who will deliver the diesel fuel exclusively into the supply tanks of aircraft or aircraft servicing equipment;

(8) diesel fuel sold by a permitted supplier to a public school district in this state for its exclusive use; or

(9) diesel fuel sold by a permitted supplier to a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and used by the company exclusively to provide those services.

SECTION 13. Section 153.205, Tax Code, is amended by amending Subsections (a), (b), (c), (e), (i), and (j) and adding Subsection (k) to read as follows:

(a) The first sale or use of diesel fuel in this state is taxable, except that sales [the sale] of dyed diesel fuel, or of undyed diesel fuel if the fuel will be used for an agricultural purpose, may be made without collecting the tax if the purchaser furnishes to a permitted supplier a signed statement, including an end user number or agricultural user exemption number issued by the comptroller that stipulates that:

(1) the purchaser does not operate any diesel-powered motor vehicles on the public highway;

(2) all of the diesel fuel will be consumed by the purchaser and no diesel fuel purchased on a signed statement will be resold; and

(3) none of the diesel fuel purchased in this state will be delivered or permitted by the purchaser to be delivered into fuel supply tanks of motor vehicles.

(b) A person may not make a tax-free purchase of any diesel fuel under this section using a signed statement:

(1) for the purchase of more than 3,000 gallons of dyed or undyed diesel fuel in a single transaction; or

(2) in a calendar month in which the person has previously purchased more than 10,000 gallons of dyed or undyed diesel fuel from all sources.

(c) The signed statement and end user number or agricultural user exemption number from the purchaser relieves the permitted supplier from the burden of proof that the sale of diesel fuel was not taxable to the purchaser and remains in effect unless:

(1) the statement is revoked in writing by the purchaser or supplier;

(2) the comptroller notifies the supplier in writing that the purchaser may no longer make tax-free purchases; or

(3) the supplier is put on notice by making taxable sales of diesel fuel to a purchaser who has previously submitted a signed statement to this supplier.

(e) A taxable use of any part of the dyed or undyed diesel fuel purchased under a signed statement shall, in addition to any criminal penalty, forfeit the right of the person to purchase dyed or undyed diesel fuel tax free for a period of one year from the date of the offense, and any tax, interest, and penalty found to be due through false or erroneous execution or continuance of a promissory statement by the purchaser, if assessed to the supplier, is a debt of the purchaser to the supplier until paid, and is recoverable at law in the same manner as the purchase price of the fuel. The person may, however, claim a refund of the tax paid on any undyed diesel fuel used for nonhighway purposes under Section 153.222 [~~of this code~~].

(i) A permitted supplier may not make a tax-free sale of dyed diesel fuel, or undyed diesel fuel for agricultural purposes, to a purchaser using a signed statement:

(1) for the sale of more than 3,000 gallons of dyed or undyed diesel fuel in a single transaction; or

(2) in a calendar month in which the supplier has previously sold more than 10,000 gallons of dyed or undyed diesel fuel to the purchaser.

(j)(1) A sale of dyed diesel fuel, or undyed diesel fuel for agricultural purposes, may be made without collecting tax from [tø] a purchaser who operates one or more motor vehicles on the public highway and who furnishes to a permitted supplier a signed statement and end user number or agricultural user exemption number only as provided in this subsection.

(2) The statement must stipulate that all the dyed or undyed diesel fuel will be consumed by the purchaser for purposes other than operating a motor vehicle on the public highway and that no dyed or undyed diesel fuel purchased on a signed statement will be resold or delivered into the fuel supply tanks of a motor vehicle.

(3) Diesel fuel which may be sold without collection of tax under this subsection must be of a type that may not be legally used by the purchaser for the operation of a motor vehicle on the public highway under state or federal law.

(4) Subsections (a), (c)(3), and (d) of this section do not apply to sales of fuel under this subsection.

(k) A person who wants to use a signed statement to purchase dyed diesel fuel must apply to the comptroller for an end user number to be used in conjunction with a signed statement. A person who wants to use a signed statement to purchase dyed or undyed diesel fuel for agricultural purposes must apply to the comptroller for an agricultural user exemption number to be used in conjunction with a signed statement. A person may not make a tax-free sale of any diesel fuel to a purchaser using a signed statement unless the purchaser has an end user number or agricultural user exemption number issued by the comptroller under this subsection.

SECTION 14. Subsections (h) and (i), Section 153.206, Tax Code, are amended to read as follows:

(h) The tax on two percent of the taxable gallons of diesel fuel sold in this state shall be allocated to the supplier making the first taxable sale or use of the diesel fuel and timely paying the tax to the state for the expenses of collecting, accounting for, reporting, and remitting the tax collected and for keeping records.

(i) A dyed diesel fuel bonded user, an agricultural bonded user, or a permitted interstate trucker is entitled to deduct one-half of one percent of the taxable gallons of diesel fuel on payment of the taxes to this state for the expense of recordkeeping, reporting, and remitting the tax.

SECTION 15. Subsection (a), Section 153.207, Tax Code, is amended to read as follows:

(a) A supplier, dyed diesel fuel bonded user, agricultural bonded user, interstate trucker, diesel tax prepaid user, aviation fuel dealer, or diesel fuel jobber shall file an application with the comptroller for one of the nonassignable permits provided for in this subchapter.

SECTION 16. Subsection (b), Section 153.208, Tax Code, is amended to read as follows:

(b) A supplier's permit authorizes a person to sell tax-free diesel fuel to:

- (1) another supplier;
- (2) a dyed diesel fuel bonded user or agricultural bonded user;
- (3) an aviation fuel dealer;
- (4) a diesel prepaid user if delivered into his bulk storage facilities only; and
- (5) a person issuing a signed statement.

SECTION 17. Section 153.209, Tax Code, is amended to read as follows:

Sec. 153.209. DYED DIESEL FUEL BONDED USER AND AGRICULTURAL BONDED USER PERMITS [PERMIT]. (a) A dyed diesel fuel bonded user permit authorizes a user to purchase more than 10,000 gallons a month of dyed diesel fuel for the user's own use [whose purchases of diesel fuel are predominantly for nonhighway use to purchase diesel fuel tax free from permitted suppliers and to report and pay taxes to this state on that part of the diesel fuel that is delivered into the fuel supply tanks of motor vehicles owned or operated by him].

(b) An agricultural bonded user permit authorizes a user to purchase more than 10,000 gallons of dyed and undyed diesel fuel for the user's own use for agricultural purposes only.

SECTION 18. Subsection (a), Section 153.210, Tax Code, is amended to read as follows:

(a) A diesel tax prepaid user permit authorizes a person whose use of diesel fuel is predominantly for agricultural nonhighway use, but who owns or operates one or more passenger cars or light trucks only in the weight class shown in this section to elect to prepay an annual tax on the fuel delivered from his own tax-free storage rather than obtain an agricultural [a] bonded user permit. If he elects to obtain a diesel tax prepaid user permit, he must prepay the tax at the rate prescribed for each motor vehicle based on the class of registered gross weight. A person whose purchases of diesel fuel are predominantly for highway use does not qualify for a diesel tax prepaid user permit.

SECTION 19. Section 153.214, Tax Code, is amended to read as follows:

Sec. 153.214. SUPPLIER MAY PERFORM OTHER FUNCTIONS. A supplier may operate under the supplier's permit as a dyed diesel fuel bonded user, agricultural

bonded user, dealer, or aviation fuel dealer without securing a separate permit, but is subject to all other conditions, requirements, and liabilities imposed on those permittees.

SECTION 20. Subsection (a), Section 153.215, Tax Code, is amended to read as follows:

(a) A supplier's permit, a dyed diesel fuel bonded user permit, and an agricultural bonded user permit are are [is] permanent and valid as long as the permittee has in force and effect the required bond or security and furnishes timely reports and supplements as required, or until the permit is surrendered by the holder or canceled by the comptroller. The comptroller shall [may] cancel a [~~supplier's or bonded user's~~] permit if no purchase, sale, or use of diesel fuel has been reported by the permittee [~~supplier or bonded user~~] for the prior nine [~~12~~] months.

SECTION 21. Subsection (a), Section 153.217, Tax Code, is amended to read as follows:

(a) The comptroller, on or before December 20 of each calendar year, shall mail or distribute to each supplier a printed alphabetical list of permitted suppliers, dyed diesel fuel bonded users, agricultural bonded users, aviation fuel dealers, and diesel fuel jobbers. A permitted supplier, an agricultural [a] bonded user, and an aviation fuel dealer on the list are qualified to purchase dyed or undyed diesel fuel tax free during the following calendar year. A dyed diesel fuel bonded user on the list is qualified to purchase dyed diesel fuel tax free during the following calendar year. A diesel fuel jobber on the list is qualified to purchase diesel fuel tax-paid during the following calendar year. A supplemental list of additions and deletions shall be delivered to each supplier each month.

SECTION 22. Subsections (a), (b), (c), and (j), Section 153.218, Tax Code, are amended to read as follows:

(a) The comptroller shall determine the amount of security required of a supplier, dyed diesel fuel bonded user, agricultural bonded user, or diesel fuel jobber taking into consideration the amount of the tax that has or is expected to become due from the person, any past history of the person as a supplier, dyed diesel fuel bonded user, agricultural bonded user, or diesel fuel jobber, and the necessity to protect the state against the failure to pay the tax as it becomes due.

(b) If it is determined that the posting of security is necessary to protect the state, the comptroller may require a supplier, dyed diesel fuel bonded user, or agricultural bonded user to post a surety bond equal to two times the most amount of tax that could accrue on tax-free diesel fuel purchased or acquired during a reporting period. A diesel fuel jobber shall post a bond in an amount determined by the comptroller according to the past payment history of the jobber. The minimum bond for a supplier or diesel fuel jobber is \$30,000, and the maximum bond is \$600,000. The minimum bond for a dyed diesel fuel bonded user or agricultural bonded user is \$10,000, and the maximum bond is \$600,000. However, if the comptroller determines there is undue risk of loss of tax revenues, the comptroller may require one or more bonds or securities in a total amount exceeding \$600,000.

(c) A supplier, dyed diesel fuel bonded user, agricultural bonded user, or diesel fuel jobber who has filed a bond or other security under this subchapter is exempted from the bond or other security requirements of this subchapter and is entitled, on request, to have the comptroller return, refund, or release the bond or security if in the judgment of the comptroller the person has for four consecutive years continuously

complied with the conditions of the bond or other security filed under this subchapter. However, if the comptroller determines that the revenues of the state would be jeopardized by the return, refund, or release of the bond or security, the comptroller may elect not to return, refund, or release the bond or security, and may reimpose a requirement of a bond or other security as the comptroller determines is necessary to protect the revenues of the state.

(j) The comptroller shall notify immediately the issuer of a letter of credit of a final determination of the supplier's, dyed diesel fuel bonded user's, or agricultural bonded user's delinquent liability or a judgment secured in any action by this state to recover diesel taxes, costs, penalties, and interest found to be due this state by a supplier, dyed diesel fuel bonded user, or agricultural bonded user in whose behalf the letter of credit was issued. The letter of credit allowed as security for the remittance of taxes under this subchapter shall contain a statement that the issuer agrees to respond to the comptroller's notice of liability with amounts to satisfy the comptroller's delinquency claim against the supplier, dyed diesel fuel bonded user, or agricultural bonded user.

SECTION 23. Section 153.219, Tax Code, is amended by amending Subsections (a) and (c) and adding Subsection (j) to read as follows:

(a) A supplier shall keep a record showing the number of gallons of:

- (1) all diesel fuel inventories on hand at the first of each month;
- (2) all diesel fuel refined, compounded, or blended;
- (3) all diesel fuel purchased or received, showing the name of the seller, and

the date of each purchase or receipt;

(4) all diesel fuel sold, distributed, or used showing the name of each ~~the~~ purchaser and the date of sale, distribution, or use; and

- (5) all diesel fuel lost by fire or other accident.

(c) A dyed diesel fuel bonded user, an agricultural bonded user, or other user with nonhighway equipment uses who files a claim for a refund shall keep a record showing the number of gallons of:

- (1) inventories of all diesel fuel on hand at the first of each month;
- (2) all diesel fuel purchased or received, showing the name of the seller and

the date of each purchase;

- (3) all diesel fuel deliveries into the fuel supply tanks of motor vehicles;

(4) diesel fuel used for other purposes, showing the purpose for which used; and

- (5) all diesel fuel lost by fire or other accident.

(j) A supplier shall keep:

(1) an itemized statement showing by load the number of gallons of all diesel fuel received during the preceding calendar month for export;

(2) an itemized statement showing by load the number of gallons of all diesel fuel exported from this state by destination state or country;

(3) an itemized statement showing by load the number of gallons of all diesel fuel imported during the preceding calendar month by destination state or country;

(4) an itemized statement differentiating between dyed and undyed diesel fuel and showing by purchaser, end user number, or agricultural user exemption number the number of gallons of dyed and undyed diesel fuel sold tax free to a purchaser using a signed statement in accordance with Section 153.205; and

(5) an itemized statement showing by purchaser and permit number the number of gallons of dyed and undyed diesel fuel sold tax free to dyed diesel fuel bonded users and agricultural bonded users.

SECTION 24. Subsection (a), Section 153.220, Tax Code, is amended to read as follows:

(a) A delivery of diesel fuel into the fuel supply tanks of a motor vehicle operated for commercial purposes and described by Section 153.001(12) shall be evidenced by an invoice issued in duplicate by a dealer or an invoice or a distribution log issued by a dyed diesel fuel bonded user, an agricultural bonded user, or other user.

SECTION 25. Subsections (a) and (b), Section 153.221, Tax Code, are amended to read as follows:

(a) On or before the 25th day of each month, a supplier, a dealer required to collect the tax under Section 153.206(b), or a user required to pay the tax under Section 153.206(c) shall file a report of diesel fuel transactions or of diesel fuel delivered by a user into the fuel tank of a motor vehicle owned or operated by the user and such supplements as the comptroller may require and remit the amount of tax required to be collected or to be paid during the preceding month. A report must be filed on a form or in a manner provided by the comptroller and contain information required by the comptroller, showing complete and detailed information of diesel fuel transactions or use during the preceding month. A supplier required to file a report under this section who has not sold, used, or distributed any diesel fuel during the reporting period shall file with the comptroller the report setting forth the facts or information. The failure of a supplier, dealer, or user to obtain forms or software from the comptroller is no excuse for the failure to file a report. The report must be executed by the supplier, dealer, or user, or his representative and is subject to the penalties provided in this chapter.

(b) On or before the 25th day of the month following the end of each calendar quarter, a dyed diesel fuel bonded user, an agricultural bonded user, or an interstate trucker shall file a report and remit the amount of tax due [~~except as provided by Subsection (d) of this section~~]. A report must be executed and filed with the comptroller and contain complete and detailed information on diesel fuel transactions during the preceding calendar quarter and other information required by the comptroller on forms or in a manner provided for that purpose. A dyed diesel fuel bonded user, an agricultural bonded user, or an interstate trucker required to file a report under this section who has not sold, used, or distributed any diesel fuel during the reporting period shall file with the comptroller the report setting forth the facts or information. The failure of a dyed diesel fuel bonded user, an agricultural bonded user, or an interstate trucker to obtain forms or software from the comptroller is no excuse for the failure to file a report containing all the information required to be reported.

SECTION 26. Subsection (d), Section 153.222, Tax Code, is amended to read as follows:

(d) If the quantity of diesel fuel used in Texas by auxiliary power units or power take-off equipment on any motor vehicle can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel the motor vehicle, the comptroller may approve and adopt the use of any device as a basis for determining the quantity of diesel fuel consumed in those operations for tax credit or tax refund. If no separate metering device or other approved measuring method is provided, the following credit

or refund procedures are authorized. A permitted supplier, a dyed diesel fuel bonded user, or an agricultural bonded user who operates diesel-powered motor vehicles equipped with a power take-off or a diesel-powered auxiliary power unit mounted on the motor vehicle and using the fuel supply tank of the motor vehicle may be allowed a deduction from the taxable gallons used in this state in each motor vehicle so equipped. The comptroller shall determine the percentage of the deduction. A user who is required to pay the tax on diesel fuel used in motor vehicles so equipped may file a claim for a refund not to exceed the percentage allowed by the comptroller of the total taxable fuel used in this state in each motor vehicle so equipped.

SECTION 27. Subsection (a), Section 153.223, Tax Code, is amended to read as follows:

(a) A refund claim must be filed with the comptroller on forms provided by the comptroller and show the date of filing, the period covered in the claim, the number of gallons of diesel fuel subject to refund, and other information required by the comptroller. A claim must be supported by one or more original invoices issued to or by the claimant, or such other information as the comptroller deems necessary. A permitted supplier may not file a claim for a refund of taxes paid by a purchaser of undyed diesel fuel.

SECTION 28. Subsection (d), Section 153.224, Tax Code, is amended to read as follows:

(d) A permitted supplier, a dyed diesel fuel bonded user, or an agricultural bonded user that determines taxes were erroneously reported or that paid more taxes than were due this state because of a mistake of fact or law may take a credit on the supplier, dyed diesel fuel bonded user, or agricultural bonded user tax report on which the error has occurred and tax payment made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

SECTION 29. Subchapter C, Chapter 153, Tax Code, is amended by adding Sections 153.226 through 153.230 to read as follows:

Sec. 153.226. NOTICE REGARDING DYED DIESEL FUEL. A notice stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" must be:

(1) provided by a permitted supplier to a person who receives dyed diesel fuel;

(2) provided by a seller of dyed diesel fuel to the person's buyer; and

(3) posted by a seller on a retail pump or bulk plant at which the person sells dyed diesel fuel for use by the person's buyers.

Sec. 153.227. DYED DIESEL FUEL NOTICE REQUIRED ON SHIPPING DOCUMENTS, BILLS OF LADING, AND INVOICES. The form of notice required by Sections 153.226(1) and (2) must be provided when the dyed diesel fuel is removed or sold and must appear on each shipping document, bill of lading, cargo manifest, and invoice accompanying the sale or removal of the dyed diesel fuel.

Sec. 153.228. UNAUTHORIZED SALE OR USE OF DYED DIESEL FUEL. (a) A person may not sell or hold for sale dyed diesel fuel for any use that the person knows or has reason to know is a taxable use of the diesel fuel.

(b) A person may not use or hold for use dyed diesel fuel for a use other than a nontaxable use if the person knows or has reason to know that the diesel fuel is dyed diesel fuel.

Sec. 153.229. ALTERATION OF DYE OR MARKER IN DYED DIESEL FUEL PROHIBITED. A person, with the intent to evade payment of tax, may not alter or attempt to alter the strength or composition of a dye or marker in dyed diesel fuel.

Sec. 153.230. USE OF DYED FUEL PROHIBITED. (a) A person may not operate a motor vehicle on a public highway in this state with taxable motor fuel that contains dye in the fuel supply tank of the motor vehicle.

(b) This section does not apply to a use of dyed fuel that is lawful under the Internal Revenue Code and implementing regulations, including use in state and local government vehicles or buses, unless otherwise prohibited by this chapter.

SECTION 30. Subsection (a), Section 153.401, Tax Code, is amended to read as follows:

(a) If a person having a permit as a distributor, supplier, dyed diesel fuel bonded user, agricultural bonded user, dealer, or interstate trucker fails to file a report as required by this chapter or fails to pay a tax imposed by this chapter when due, the person forfeits five percent of the amount due as a penalty, and if the person fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, the person forfeits an additional five percent.

SECTION 31. Section 153.402, Tax Code, is amended to read as follows:

Sec. 153.402. PROHIBITED ACTS; CIVIL PENALTIES. (a) A person forfeits to the state a civil penalty of not less than \$25 nor more than \$200 if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on demand of a peace officer or the comptroller;

(2) operates a motor vehicle in this state without a valid interstate trucker's or a trip permit when the person is required to hold one of those permits;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in Texas, including motor vehicles equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;

(4) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(5) makes a taxable sale or delivery of liquefied gas without holding a valid dealer's permit;

(6) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(7) makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement;

(8) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor or with the fuel supply tank feeding the fuel injector or carburetor of the motor vehicle transporting the product;

(9) sells or delivers gasoline or diesel fuel from any fuel supply tank connected with the fuel injector or carburetor of a motor vehicle;

(10) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(11) furnishes a signed statement to a supplier for purchasing diesel fuel of a type that may be legally used by the purchaser for the operation of a motor vehicle

on the public highway under state or federal law tax free when he owns, operates, or acquires a diesel-powered motor vehicle;

(12) fails or refuses to comply with or violates a provision of this chapter; ~~or~~

(13) fails or refuses to comply with or violates a comptroller's rule for administering or enforcing this chapter;

(14) is an importer who does not obtain an import verification number when required by this chapter; or

(15) purchases motor fuel for export, on which the tax imposed by this chapter has not been paid, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any other state or country other than the originally designated state or country without first obtaining a diversion number.

(b) An importer or exporter that violates a requirement of Section 153.018 is liable to this state for a civil penalty of \$2,000 or five times the amount of the unpaid tax, whichever is greater, for each violation.

(c) A person receiving motor fuel who accepts a shipping document that does not conform with the requirements of Section 153.018(a) is liable to this state for a civil penalty of \$2,000 or five times the amount of the unpaid tax, whichever is greater, for each occurrence.

(d) A person operating a bulk plant or terminal who issues a shipping document that does not conform with the requirements of Section 153.018(a) is liable to this state for a civil penalty of \$2,000 or five times the amount of the unpaid tax, whichever is greater, for each occurrence.

(e) A person operating a terminal or bulk plant who does not post notice as required by Section 153.018(i) is liable to this state for a civil penalty of \$100 for each day the notice is not posted as required by Section 153.018(i).

SECTION 32. Section 153.403, Tax Code, is amended to read as follows:

Sec. 153.403. CRIMINAL OFFENSES. Except as provided by Section 153.404 of this code, a person commits an offense if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on the demand of a peace officer or the comptroller;

(2) is required to hold a valid trip permit or interstate trucker's permit, but operates a motor vehicle in this state without a valid trip permit or interstate trucker's permit;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in Texas, including a motor vehicle equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;

(4) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor or with the fuel supply tank feeding the fuel injector or carburetor of the motor vehicle transporting the product;

(5) sells or delivers gasoline or diesel fuel from a fuel supply tank that is connected with the fuel injector or carburetor of a motor vehicle;

(6) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(7) as a diesel tax prepaid user fails to prepay the tax on every diesel-powered motor vehicle owned or operated by him;

(8) uses dyed diesel fuel, on which a tax is required to be paid, for the operation of a motor vehicle on a public highway;

(9) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(10) ~~(9)~~ makes a sale or delivery of liquefied gas on which the person knows the tax is required to be collected, if at the time the sale is made the person does not hold a valid dealer's permit;

(11) ~~(10)~~ makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(12) ~~(11)~~ makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement;

(13) ~~(12)~~ refuses to permit the comptroller or the attorney general to inspect, examine, or audit a book or record required to be kept by a distributor, supplier, dyed diesel fuel bonded user, agricultural bonded user, dealer, interstate trucker, aviation fuel dealer, jobber, common or contract carrier, or any person required to hold a permit under this chapter;

(14) ~~(13)~~ refuses to permit the comptroller or the attorney general to inspect or examine any plant, equipment, materials, or premises where motor fuel is produced, processed, stored, sold, delivered, or used;

(15) ~~(14)~~ refuses to permit the comptroller or the attorney general to measure or gauge the contents of or take samples from a storage tank or container on premises where motor fuel is produced, processed, stored, sold, delivered, or used;

(16) ~~(15)~~ is a distributor, dyed diesel fuel bonded user, agricultural bonded user, interstate trucker, or supplier and fails or refuses to make or deliver to the comptroller a report required by this chapter to be made and delivered to the comptroller;

(17) is an importer who does not obtain an import verification number when required by this chapter;

(18) purchases motor fuel for export, on which the tax imposed by this chapter has not been paid, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any other state or country other than the originally designated state or country without first obtaining a diversion number;

(19) ~~(16)~~ conceals motor fuel with the intent of engaging in any conduct proscribed by this chapter or refuses to make sales of motor fuel on the volume-corrected basis prescribed by this chapter;

(20) ~~(17)~~ refuses, while transporting motor fuel, to stop the motor vehicle he is operating when called on to do so by a person authorized to stop the motor vehicle;

(21) ~~(18)~~ refuses to surrender a motor vehicle and cargo for impoundment after being ordered to do so by a person authorized to impound the motor vehicle and cargo;

(22) ~~(19)~~ transports motor fuel for which a cargo manifest is required to be carried without possessing or exhibiting on demand by an officer authorized to make the demand a cargo manifest containing the information required to be shown on the manifest;

~~(20)~~ mutilates, destroys, or secretes a book or record required by this chapter to be kept by a distributor, supplier, dyed diesel fuel bonded user, agricultural

bonded user, dealer, interstate trucker, aviation fuel dealer, jobber, or person required to hold a permit under this chapter;

(23) [~~(21)~~] is a distributor, supplier, dyed diesel fuel bonded user, agricultural bonded user, dealer, interstate trucker, aviation fuel dealer, jobber, or other person required to hold a permit under this chapter, or the agent or employee of one of those persons and makes a false entry or fails to make an entry in the books and records required under this chapter to be made by the person or fails to retain a document as required by this chapter;

(24) [~~(22)~~] transports in any manner motor fuel under a false cargo manifest or shipping document, or transports in any manner motor fuel to a location without delivering at the same time a shipping document relating to that shipment;

(25) [~~(23)~~] engages in a motor fuel transaction that requires that the person have a permit under this chapter without then and there holding the required permit;

(26) [~~(24)~~] makes and delivers to the comptroller a report required under this chapter to be made and delivered to the comptroller, if the report contains false information;

(27) [~~(25)~~] forges, falsifies, or alters an invoice prescribed by law;

(28) [~~(26)~~] makes any statement, knowing said statement to be false, in a claim for a tax refund filed with the comptroller;

(29) [~~(27)~~] furnishes to a supplier a signed statement for purchasing diesel fuel of a type that may be legally used by the purchaser for the operation of a motor vehicle on the public highway under state or federal law tax free when he owns, operates, or acquires a diesel-powered motor vehicle;

(30) [~~(28)~~] holds an aviation fuel dealer's permit and makes a taxable sale or use of any gasoline or diesel fuel;

(31) [~~(29)~~] fails to remit any tax funds collected by a distributor, supplier, dyed diesel fuel bonded user, agricultural bonded user, dealer, interstate trucker, jobber, or any other person required to hold a permit under this chapter;

(32) [~~(30)~~] makes a sale of diesel fuel tax free into a storage facility of a person who:

(A) is not permitted as a supplier, as an aviation fuel dealer, as a dyed diesel fuel bonded user, as an agricultural bonded user, or as a diesel tax prepaid user of diesel fuel; or

(B) does not furnish to the permitted supplier a signed statement prescribed in Section 153.205 of this code;

(33) [~~(31)~~] makes a sale of gasoline tax free to any person who is not permitted as either a distributor or an aviation fuel dealer;

(34) [~~(32)~~] is a dealer who purchases any motor fuel tax free when not authorized to make a tax-free purchase under this chapter; ~~or~~

(35) [~~(33)~~] is a dealer who purchases motor fuel with the intent to evade any tax imposed by this chapter, or who accepts a delivery of motor fuel by any means and does not at the same time accept or receive a shipping document relating to the delivery;

(36) transports motor fuel for which a cargo manifest or shipping document is required to be carried without possessing or exhibiting on demand by an officer authorized to make the demand a cargo manifest or shipping document containing the information required to be shown on the manifest or shipping document;

(37) imports, sells, uses, distributes, or stores motor fuel within this state on which the taxes imposed by this chapter are owed but have not been first paid to or reported by the holder of a distributor, supplier, liquefied gas dealer, interstate trucker, diesel tax prepaid user, dyed diesel fuel bonded user, or agricultural bonded user permit;

(38) blends products together to produce a blended fuel that is offered for sale, sold, or used that expands the volume of the original product to evade paying applicable motor fuel taxes; or

(39) evades or attempts to evade in any manner a tax imposed on motor fuel by this chapter.

SECTION 33. Article 12.01, Code of Criminal Procedure, is amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

- (1) no limitation: murder and manslaughter;
- (2) ten years from the date of the commission of the offense:
 - (A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;
 - (B) theft by a public servant of government property over which he exercises control in his official capacity;
 - (C) forgery or the uttering, using or passing of forged instruments; or
 - (D) indecency with a child under Section 21.11(a)(2), Penal Code;
- (3) seven years from the date of the commission of the offense:
 - (A) misapplication of fiduciary property or property of a financial institution;
 - (B) securing execution of document by deception; or
 - (C) a violation under Sections 153.403(22)-(39), Tax Code;
- (4) five years from the date of the commission of the offense:
 - (A) theft, burglary, robbery;
 - (B) arson; or
 - (C) sexual assault, except as provided in Subsection (5) of this article;
- (5) ten years from the 18th birthday of the victim of the offense:
 - (A) indecency with a child under Section 21.11(a)(1), Penal Code;
 - (B) sexual assault under Section 22.011(a)(2), Penal Code;
 - (C) aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code; or
- (6) three years from the date of the commission of the offense: all other felonies.

SECTION 34. Subsections (b), (c), and (d), Section 153.404, Tax Code, are amended to read as follows:

(b) Each day that a refusal prohibited under Section 153.403(13), [~~153.403(12), (13), or~~] (14), or (15) [~~of this code~~] continues is a separate offense.

(c) The prohibition under Section 153.403(32) [~~153.403(30) of this code~~] does not apply to the tax-free sale or distribution of diesel fuel authorized by Section 153.203(1), (2), or (5) [~~of this code~~].

(d) The prohibition under Section 153.403(33) [~~153.403(31) of this code~~] does not apply to the tax-free sale or distribution of gasoline under Section 153.104(2) or (4) [~~of this code~~].

SECTION 35. Section 153.405, Tax Code, is amended to read as follows:

Sec. 153.405. CRIMINAL PENALTIES. (a) An offense under Section 153.403(1), (2), (3), (4), (5), (6), ~~[or] (7), or (8) [of this code]~~ is a Class C misdemeanor.

(b) An offense under Section 153.403(9) ~~[153.403(8), (9)]~~, (10), (11), (12), (13), (14), ~~[or] (15), (16), (17), or (18) [of this code]~~ is a Class B misdemeanor.

(c) An offense under Section 153.403(19), (20), or (21) ~~[153.403(16), (17), (18), or (19) of this code]~~ is a Class A misdemeanor.

(d) An offense under Section 153.403(22) ~~[153.403(20), (21), (22)]~~, (23), (24), (25), (26), ~~[or] (27), (28), or (29) [of this code]~~ is a felony of the third degree.

(e) An offense under Section 153.403(30) ~~[153.403(28), (29), (30)]~~, (31), (32), ~~[or] (33), (34), (35), (36), (37), (38), or (39) [of this code]~~ is a felony of the second degree.

(f) Violations of three or more separate offenses under Sections 153.403(22) ~~[153.403(20)]~~ through (29) ~~[(27) of this code]~~ committed pursuant to one scheme or continuous course of conduct may be considered as one offense and punished as a felony of the second degree.

SECTION 36. The change in law made by this Act does not apply to an offense if the prosecution of the offense became barred by limitation before the effective date of this Act. The prosecution of that offense remains barred as though this Act had not taken effect.

SECTION 37. If Article 12.01, Code of Criminal Procedure, as amended by this Act conflicts with Article 12.01 of that code, as amended by S.B. No. 70, Acts of the 76th Legislature, Regular Session, 1999, the change in law made by this Act to Article 12.01 controls over the change made by S.B. No. 70.

SECTION 38. This Act takes effect September 1, 2000, and applies to motor fuel that is imported or exported on or after that date or on which the first sale occurs on or after that date. Motor fuel imported or exported before that date or for which the first sale occurs before that date is governed by the law in effect when the motor fuel was imported, exported, or first sold, and that law is continued in effect for that purpose.

SECTION 39. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Bivins, the Senate concurred in the House amendment to **SB 1547** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 1975

Senator Bivins 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 **HB 1975** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 1975** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Bivins, Chair; Brown, Duncan, Ratliff, and Armbrister.

CONFERENCE COMMITTEE ON HOUSE BILL 2960

Senator Armbrister 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 **HB 2960** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 2960** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Brown, Lucio, Duncan, and Bivins.

SENATE BILL 46 WITH HOUSE AMENDMENT

Senator Carona called **SB 46** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 46** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. (a) Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 145 to read as follows:

CHAPTER 145. CIVIL ACTION FOR FRAUDULENT USE OF IDENTIFYING INFORMATION

Sec. 145.001. CAUSE OF ACTION. A person who suffers personal injury or property damage as a result of conduct described by Section 32.51, Penal Code, may bring an action to recover damages resulting from that conduct.

Sec. 145.002. DAMAGES. A person who establishes a cause of action under this chapter is entitled to:

- (1) actual damages;
- (2) exemplary damages; and
- (3) reasonable attorney's fees and court costs.

(b) This section applies only to a cause of action that accrues on or after the effective date of this Act. 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.

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

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **SB 46** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Carona, Chair; Armbrister, Duncan, West, and Brown.

SENATE BILL 1351 WITH HOUSE AMENDMENTS

Senator Barrientos called **SB 1351** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 1351** as follows:

(1) Strike SECTIONS 3 and 4 of the bill (house committee printing, page 4, line 12, through page 7, line 16).

(2) In SECTION 5 of the bill, strike Subsection (b) (house committee printing, page 7, line 18, through page 8, line 3) and substitute the following:

(b) Section 14A, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as added by this Act, does not apply to the purchase of basic coverage for a dependent child by the trustee of the group benefits program established under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), before fiscal year 2001.

(3) Renumber SECTIONS of the bill appropriately.

Floor Amendment No. 2

Amend **SB 1351** as follows:

(1) In Section 14A, The Texas Employees Uniform Group Insurance Benefits Act, as added by SECTION 1 of the bill, between lines 8 and 9, page 3, insert new Subsection (g) to read as follows:

(g) If the program established under Chapter 62.002, Health and Safety Code, which utilizes federal funding under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, is terminated, state contributions for benefits for those eligible under Subsection (a) shall terminate as well.

The amendments were read.

On motion of Senator Barrientos, the Senate concurred in the House amendments to **SB 1351** by a viva voce vote.

SENATE BILL 1603 WITH HOUSE AMENDMENT

Senator Sibley called **SB 1603** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1603** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the receipt and expenditure of revenue derived from the municipal hotel occupancy tax.

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

SECTION 1. Section 351.001, Tax Code, is amended by adding Subdivision (10) to read as follows:

(10) "Revenue" includes any interest derived from the revenue.

SECTION 2. Subchapter B, Chapter 351, Tax Code, is amended by adding Section 351.107 to read as follows:

Sec. 351.107. RECORDS. A municipality shall maintain a record that accurately identifies the receipt and expenditure of all revenue derived from the tax imposed under this chapter.

SECTION 3. (a) This Act takes effect September 1, 1999.

(b) Section 351.107, Tax Code, as added by this Act, applies only to an expenditure made on or after the effective date of this Act, without regard to whether the expenditure is from revenue collected under Chapter 351, Tax Code, before, on, or after that date.

(c) An expenditure made before the effective date of this Act is governed by the law applicable to the action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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

The amendment was read.

On motion of Senator Sibley, the Senate concurred in the House amendment to **SB 1603** by a viva voce vote.

SENATE BILL 1664 WITH HOUSE AMENDMENT

Senator Shapleigh called **SB 1664** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1664** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the application of the proportionate retirement program to certain public retirement systems under which employees may be transferred.

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

SECTION 1. Section 803.101(f), Government Code, is amended to read as follows:

(f) The governing body of a public retirement system in this state for municipal employees that is a qualified plan under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401) may elect to participate in the proportionate retirement program by adopting a resolution to that effect. A resolution may not be adopted under this subsection without the approval of the governing body of the municipality that finances the retirement system. The governing body of the retirement system shall notify all other participating retirement systems of the election. The effective date of participation in the proportionate retirement program by a retirement system for which an election is made under this subsection is the first day of the third month after the month in which notice is given under this subsection. An election under this subsection does not require the approval of the participants in the public retirement system making the election.

SECTION 2. Section 803.003, Government Code, is amended to read as follows:

Sec. 803.003. CONSTRUCTION OF CHAPTER. (a) The provisions of this chapter are exceptions to the other laws governing retirement systems to which this chapter applies and prevail over those laws to the extent of explicit conflict, but this chapter must be construed strictly as against those laws.

(b) Notwithstanding any other law, a person who is involuntarily transferred to a position included in the coverage of a retirement system governed by Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes), from a position included in a retirement system operated by a municipality that does not participate in a statewide retirement system governed by Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes), may make an irrevocable election at the time of the transfer to continue membership in the municipal retirement system. An involuntary transfer is determined by the employment rules that apply to the person immediately before the time of the involuntary transfer.

SECTION 3. This Act takes effect September 1, 1999.

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

The amendment was read.

On motion of Senator Shapleigh, the Senate concurred in the House amendment to **SB 1664** by a viva voce vote.

SENATE BILL 1223 WITH HOUSE AMENDMENT

Senator Moncrief called **SB 1223** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1 on Third Reading

Amend **SB 1223** on third reading on page 3, line 20, by striking "48" and inserting "60".

The amendment was read.

Senator Moncrief moved to concur in the House amendment to **SB 1223**.

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

Absent-excused: Luna.

SENATE BILL 1118 WITH HOUSE AMENDMENT

Senator Armbrister called **SB 1118** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1118** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the adoption by the governing body of a taxing unit of an ad valorem tax rate.

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

SECTION 1. Subsections (a) and (c), Section 26.05, Tax Code, are amended to read as follows:

(a) ~~The [Except as provided by Subsection (c), the]~~ governing body of each taxing unit, before ~~the later of September 30 [+]~~ or ~~the 60th day after the date the certified appraisal roll is received by the taxing unit, [as soon thereafter as practicable]~~ shall adopt a tax rate for the current tax year and shall notify the assessor for the unit of the rate adopted. The tax rate consists of two components, each of which must be approved separately. The components are:

(1) the rate that, if applied to the total taxable value, will impose the total amount published under Section 26.04(e)(3)(C) ~~[of this code]~~, less any amount of additional sales and use tax revenue that will be used to pay debt service; and

(2) the rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year.

(c) ~~If the governing body of a taxing unit does not adopt a tax rate before the date required by Subsection (a) [appraisal roll is delivered to a county after August 22, the county must adopt a tax rate not later than the 30th day after the date on which the appraisal roll is received. If a tax rate is not adopted during this 30-day period], the tax rate for the taxing unit for that tax year is the lower of the effective tax rate calculated for that tax year or the tax rate adopted by the taxing unit for the preceding tax year. A tax rate established by this subsection [That rate] is treated as an adopted tax rate. Before the fifth day after [Within five days of] the establishment [adoption] of a tax rate by [pursuant to] this subsection, the governing body of the taxing unit [county] must ratify the applicable [such] tax rate in the manner required [as provided] by Subsection (b) [of this section].~~

SECTION 2. This Act takes effect January 1, 2000, and applies to the ad valorem tax rate of a taxing unit for a tax year that begins on or after that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Armbrister, the Senate concurred in the House amendment to **SB 1118** by a viva voce vote.

SENATE BILL 1862 WITH HOUSE AMENDMENT

Senator Ratliff called **SB 1862** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1862** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the state participation program of the Texas Water Development Board.

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

SECTION 1. Subchapter E, Chapter 16, Water Code, is amended by adding Section 16.142 to read as follows:

Sec. 16.142. RECOVERY OF ADMINISTRATIVE COSTS. (a) The board may charge an administrative fee to a political subdivision with which the board agrees to participate in a project under this subchapter.

(b) The board by rule shall set the fee at an amount it considers necessary to recover the costs incurred or to be incurred by the board in administering the project over its life, including the costs of processing an application, monitoring construction, and auditing and monitoring the project. The state auditor shall review fees charged by the board to determine whether the fees are set consistent with this subsection.

(c) The board may require the payment of the fee in one or more payments.

(d) Fees shall be deposited as directed by the board for use in administering the program.

SECTION 2. This Act takes effect September 1, 1999.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Ratliff, the Senate concurred in the House amendment to **SB 1862** by a viva voce vote.

SENATE BILL 677 WITH HOUSE AMENDMENT

Senator Jackson called **SB 677** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 677** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the creation and operation of the Windstorm Building Code Advisory Committee on Specifications and Maintenance.

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

SECTION 1. Article 21.49, Insurance Code, is amended by adding Section 6C to read as follows:

Sec. 6C. ADVISORY COMMITTEE ON BUILDING CODE SPECIFICATIONS AND MAINTENANCE. (a) In this section, "advisory committee" means the Windstorm Building Code Advisory Committee on Specifications and Maintenance.

(b) The Windstorm Building Code Advisory Committee on Specifications and Maintenance is established as an advisory committee to the commissioner to advise and make recommendations to the commissioner on building specifications and maintenance in the plan of operation.

(c) The advisory committee is composed of nine members appointed by the commissioner without regard to the race, color, disability, sex, religion, age, or national origin of the appointee. The commissioner or the commissioner's designated representative shall serve as an ex officio, nonvoting member of the advisory committee. The voting members of the advisory committee shall be appointed as follows:

(1) three members must be representatives of the building industry who reside in designated catastrophe areas:

(A) two of whom are residential builders; and

(B) one of whom is a representative of the building supply industry;

(2) three members must be representatives of the insurance industry:

(A) one of whom is a member of the board of directors of the Association; and

(B) two of whom are full-time employees of an insurance company authorized to engage in the business of property and casualty insurance in this state that writes insurance in the designated catastrophe area; and

(3) three members must be representatives of the public who reside in a designated catastrophe area, one of whom is a professional engineer licensed in this state.

(d) A member of the advisory committee serves a three-year term. A member of the advisory committee is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses incurred in performing duties as an advisory committee member, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

(e) The advisory committee shall elect a presiding officer from its members. The advisory committee shall meet at the call of the presiding officer with the approval of the commissioner, but at least two times each year. The advisory committee shall publish the date and location of the meeting not later than the 45th day before the date on which the meeting is scheduled to occur. The commissioner or the commissioner's designee must be present at each meeting of the advisory committee.

(f) The advisory committee shall analyze and make recommendations for changes regarding building specifications adopted by the commissioner in the plan of operation. In making recommendations, the advisory committee shall consider technological developments in building products and windstorm research and shall seek to balance the concerns of all affected parties, including consumers, builders, and the Association.

(g) Each proposal for a change in an applicable building specification must be submitted to the commissioner. Each proposal must be submitted separately in writing and must contain:

(1) the name, mailing address, and telephone number of the proponent, or, if the proponent is a group or organization, the name of the group or organization and the mailing address and telephone number of the group or organization;

(2) a citation of the building code section regarding that specification, as published in the latest edition of that code;

(3) the text of the proposed change, with deletions from current code language struck through with a single line and new language underlined; and

(4) a statement of the purpose of the proposed change, with supporting written or printed information.

(h) The commissioner by rule shall adopt a form to be used by a person in presenting a proposal for a change in an applicable building specification to the commissioner.

(i) Each proposal shall be submitted not later than the 30th day before the date of a scheduled advisory committee meeting. A proposal that does not comply with the requirements adopted under Subsection (g) of this section and is not submitted within the time specified in this subsection may not be considered at that scheduled meeting.

(j) The department shall review and organize each proposal submitted and shall allow the advisory committee and interested parties to view the proposals to be considered within a reasonable time before the meeting of the advisory committee. If requested by a majority of the advisory committee, the department shall make recommendations regarding each proposal submitted and provide to the advisory committee any necessary technical information.

(k) At an advisory committee meeting, any interested person may present the person's views on a proposal for a change in an applicable building specification that is included on the advisory committee's published agenda. The advisory committee shall consider each comment presented in its action on the disposition of each proposal.

(l) After consideration of a proposal for a change in an applicable building specification, the advisory committee by vote shall:

(1) recommend adoption of the proposal as initially submitted;

(2) recommend adoption of the proposal with modifications;

(3) recommend rejection of the proposal; or

(4) suspend consideration of the proposal and request additional evaluation and study of the proposal.

(m) The advisory committee shall submit its recommendation on each proposal to the commissioner. The commissioner shall notify the advisory committee of the acceptance or rejection of each recommendation not later than the 30th day after the date of receipt by the commissioner. Acceptance of a recommendation by the commissioner means that the commissioner will consider adoption of that recommendation at a rulemaking hearing. Before adopting a recommendation, the commissioner must determine that the proposal, if adopted, will not weaken the integrity or diminish the effectiveness of a building specification. The commissioner by rule may adopt a recommendation of the advisory committee by amending the plan of operation and, in amending the plan, may adopt a specification by reference.

(n) In addition to any other rulemaking authority granted under this article, the commissioner may adopt rules as necessary to implement this section.

SECTION 2. Section 6A(f), Article 21.49, Insurance Code, is repealed.

SECTION 3. (a) This Act takes effect immediately, except that Section 2 of this Act takes effect September 1, 1999.

(b) The advisory committee established under Section 6A(f), Article 21.49, Insurance Code, as that section existed before repeal by this Act, is abolished effective August 31, 1999.

(c) The initial members of the Windstorm Building Code Advisory Committee on Specifications and Maintenance created under Section 6C, Article 21.49, Insurance Code, as added by this Act, shall be appointed not later than September 1, 1999.

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

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 677**.

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

Absent-excused: Luna.

SENATE BILL 1074 WITH HOUSE AMENDMENTS

Senator Carona called **SB 1074** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 1074** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the licensing of mortgage brokers; providing penalties.

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

SECTION 1. Subchapter D, Chapter 11, Finance Code, is amended by adding Section 11.306 to read as follows:

Sec. 11.306. MORTGAGE BROKERS. The finance commission may:

(1) review any action or rule adopted by the savings and loan commissioner under Chapter 156; and

(2) direct the savings and loan commissioner to adopt, repeal, or amend any rule or other action the savings and loan commissioner may undertake under Chapter 156.

SECTION 2. Subtitle E, Title 3, Finance Code, is amended by adding Chapter 156 to read as follows:

CHAPTER 156. MORTGAGE BROKERS SUBCHAPTER A. GENERAL PROVISIONS

Sec. 156.001. SHORT TITLE. This chapter may be cited as the Mortgage Broker License Act.

Sec. 156.002. DEFINITIONS. In this chapter:

(1) "Commissioner" means the savings and loan commissioner.
(2) "Disciplinary action" means an order by the commissioner that requires one or more of the following:

(A) suspension or revocation of a license under this chapter;

(B) probation of a suspension or revocation of a license under this chapter on terms and conditions that the commissioner determines appropriate;

(C) a reprimand of a person licensed under this chapter; or
(D) an administrative penalty imposed on a person licensed under this chapter under Section 156.302.

(3) "Finance commission" means the Finance Commission of Texas.

(4) "Fund" means the mortgage broker recovery fund established by the commissioner under Subchapter F.

(5) "Loan officer" means an individual sponsored by a licensed mortgage broker for the purposes of performing the acts of a mortgage broker. The term does not include:

(A) an individual who performs only clerical functions such as delivering a loan application to a mortgage broker or mortgage banker or gathering information related to a mortgage loan application on behalf of the prospective borrower, mortgage broker, or mortgage banker; or

(B) an individual who performs functions of a loan processor.

(6) "Loan processor" means an individual who works under the instruction of a loan officer or mortgage broker and performs only clerical functions such as gathering information, requesting information, word processing, sending correspondence, or assembling files.

(7) "Mortgage applicant" means a person who is solicited to use or who uses a mortgage broker to obtain a mortgage loan.

(8) "Mortgage banker" means a person who is:

(A) approved or authorized by the United States Department of Housing and Urban Development as a mortgagee with direct endorsement underwriting authority;

(B) an approved seller or servicer of the Federal National Mortgage Association;

(C) an approved seller or servicer of the Federal Home Loan Mortgage Association; or

(D) an approved issuer for the Governmental National Mortgage Association.

(9) "Mortgage broker" means a person who receives an application from a prospective borrower for the purposes of making a mortgage loan from that person's own funds or from the funds of another person. The term does not include:

(A) a person who performs only clerical functions such as delivering a loan application to a mortgage broker or mortgage banker or gathering information related to a mortgage loan application on behalf of the prospective borrower, mortgage broker, or mortgage banker; or

(B) a person who performs functions of a loan processor.

(10) "Mortgage loan" means a debt against real estate secured by a first-lien security interest against one-to-four family residential real estate created by a deed of trust, security deed, or other security instrument.

Sec. 156.003. SECONDARY MARKET TRANSACTIONS. This chapter does not prohibit a mortgage broker from receiving compensation from a party other than the mortgage applicant for the sale, transfer, assignment, or release of rights on the closing of a mortgage transaction.

Sec. 156.004. DISCLOSURE TO APPLICANT. At the time an applicant submits an application to a mortgage broker, the mortgage broker shall provide to the applicant a disclosure that specifies the nature of the relationship between applicant

and broker, the duties the broker has to the applicant, and how the mortgage broker will be compensated. The commissioner, by rule, shall promulgate a standard disclosure form to be used by the mortgage broker.

Sec. 156.005. AFFILIATED BUSINESS ARRANGEMENTS. Unless prohibited by federal law, this chapter may not be construed to prevent affiliated or controlled business arrangements or loan origination services by or between mortgage brokers and other professionals if the mortgage broker complies with all applicable federal laws permitting those arrangements or services.

[Sections 156.006 to 156.100 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION PROVISIONS

Sec. 156.101. ADMINISTRATION OF CHAPTER. (a) The commissioner shall administer this chapter.

(b) The commissioner may hire employees as necessary to administer this chapter. The salaries of the employees shall be set by the commissioner in amounts not to exceed the amounts set by the General Appropriations Act.

(c) The commissioner may employ a general counsel, attorneys, investigators, and support staff to administer and enforce this chapter.

Sec. 156.102. RULEMAKING AUTHORITY. (a) Subject to review and compliance with the directives of the finance commission as provided by Section 11.306, the commissioner may adopt and enforce rules necessary for the intent of or to ensure compliance with this chapter.

(b) The commissioner may adopt rules to prohibit false, misleading, or deceptive practices by mortgage brokers and loan officers but may not adopt any other rules restricting competitive bidding or advertising by mortgage brokers or loan officers. When adopting rules under this subsection, the commissioner may not restrict:

- (1) the use of any medium for an advertisement;
- (2) the personal appearance of or voice of a person in an advertisement;
- (3) the size or duration of an advertisement; or
- (4) a mortgage broker's or loan officer's advertisement under a trade name.

(c) The commissioner may adopt rules regarding books and records that a person licensed under this chapter is required to keep, including the location at which the books and records must be kept.

(d) The commissioner shall consult with the mortgage broker advisory committee when proposing and adopting rules under this chapter.

Sec. 156.103. POWERS OF COMMISSIONER. (a) In addition to any other action, proceeding, or remedy authorized by law, the commissioner may institute an action in the commissioner's name to enjoin a violation of this chapter or a rule adopted under this chapter. To sustain an action filed under this subsection, it is not necessary to allege or prove that an adequate remedy at law does not exist or that substantial or irreparable damage would result from a continued violation of this chapter.

(b) The commissioner is not required to provide an appeal bond in any action or proceeding to enforce this chapter.

(c) The commissioner may authorize specific employees to conduct hearings and make recommendations for final decisions in contested cases.

Sec. 156.104. MORTGAGE BROKER ADVISORY COMMITTEE. (a) The mortgage broker advisory committee is created to advise and assist the commissioner.

(b) The advisory committee is composed of six members to be appointed as follows:

- (1) the commissioner shall appoint four members, each of whom:
- (A) must hold a mortgage broker license;
 - (B) is actively engaged in the business of brokering loans at the time of appointment; and
 - (C) has been primarily engaged in the business of brokering mortgage loans for at least two years before the member's appointment; and
- (2) the Texas Real Estate Commission shall appoint two members, each of whom must hold a real estate broker or salesperson license.
- (c) Appointments to the advisory committee shall be made without regard to the sex, race, color, age, disability, religion, or national origin of the appointees.
- (d) The members of the advisory committee serve for a staggered three-year term, with the terms of two members expiring February 1 of each year.
- (e) The advisory committee shall meet at least twice a year at the call of the commissioner.
- (f) The commissioner may remove a member of the advisory committee if:
- (1) the member does not have at the time of appointment the qualifications required by Subsection (b); or
 - (2) the commissioner determines that the member cannot discharge the member's duties for a substantial part of the term for which the member is appointed.
- (g) In the event of a vacancy during a term, the appointing entity or official shall fill the vacancy for the unexpired part of the term with a person who meets the qualifications of the vacated position.
- (h) In addition to other powers and duties delegated to it by the commissioner, the advisory committee shall advise the commissioner with respect to:
- (1) the proposal and adoption of rules relating to:
 - (A) the licensing of mortgage brokers and loan officers;
 - (B) the education and experience requirements for licensing mortgage brokers and loan officers;
 - (C) conduct and ethics of mortgage brokers and loan officers;
 - (D) continuing education for licensed mortgage brokers and loan officers and the types of courses acceptable as continuing education courses under this chapter; and
 - (E) the granting or denying of an application or request for renewal for a mortgage broker license or loan officer license;
 - (2) the form of or format for any applications or other documents under this chapter; and
 - (3) the interpretation, implementation, and enforcement of this chapter.
- (i) Each member of the advisory committee is entitled to a per diem allowance and to reimbursement of travel expenses necessarily incurred in performing functions as a member of the committee, subject to any applicable limitation in the General Appropriations Act.

[Sections 156.105 to 156.200 reserved for expansion]

**SUBCHAPTER C. MORTGAGE BROKER
LICENSE AND LOAN OFFICER LICENSE**

Sec. 156.201. LICENSES REQUIRED. (a) A person may not act in the capacity of, engage in the business of, or advertise or hold that person out as engaging in or conducting the business of a mortgage broker in this state unless the person holds an active mortgage broker license or is exempt under Section 156.202.

(b) An individual may not act or attempt to act as a loan officer unless the individual at the time is:

(1) sponsored by a licensed mortgage broker and acting for the mortgage broker; or

(2) exempt under Section 156.202.

(c) Each mortgage broker licensed under this chapter is responsible to the commissioner and members of the public for any act or conduct performed under this chapter by the mortgage broker or a loan officer sponsored by or acting for the mortgage broker.

Sec. 156.202. EXEMPTIONS. This chapter does not apply to:

(1) any of the following entities or an employee of any of the following entities provided the employee is acting for the benefit of the employer:

(A) a bank, savings bank, or savings and loan association, or a subsidiary or an affiliate of a bank, savings bank, or savings and loan association;

(B) a state or federal credit union;

(C) an insurance company licensed or authorized to do business in this state under the Insurance Code;

(D) a mortgage banker; or

(E) an organization that qualifies for an exemption from state franchise and sales tax as a 501(c)(3) organization;

(2) an individual who makes a mortgage loan from the individual's own funds to a spouse, former spouse, or persons in the lineal line of consanguinity of the individual lending the money;

(3) an owner of real property who makes a mortgage loan to a purchaser of the property for all or part of the purchase price of the real estate against which the mortgage is secured; or

(4) an individual who:

(A) makes a mortgage loan from the individual's own funds;

(B) is not an authorized lender under Chapter 342, Finance Code; and

(C) does not regularly engage in the business of making or brokering mortgage loans.

Sec. 156.203. APPLICATION FOR A LICENSE; FEES. (a) An application for a mortgage broker or loan officer license must be:

(1) in writing;

(2) under oath; and

(3) on the form prescribed by the commissioner.

(b) An application for a mortgage broker license must be accompanied by:

(1) an application fee in an amount determined by the commissioner not to exceed \$375; and

(2) a recovery fund fee as provided by Section 156.502.

(c) An application for a loan officer license must be accompanied by:

(1) an application fee in an amount determined by the commissioner not to exceed \$175; and

(2) a recovery fund fee as provided by Section 156.502.

(d) An application fee under this section is not refundable.

Sec. 156.204. QUALIFICATIONS. (a) To be eligible to be licensed as a mortgage broker a person must:

(1) be an individual who is at least 18 years of age;

(2) be a citizen of the United States or a lawfully admitted alien;

(3) maintain a physical office in this state and designate that office in the application;

(4) provide the commissioner with satisfactory evidence that the applicant satisfies one of the following:

(A) the person has received a bachelor's degree in an area relating to finance, banking, or business administration from an accredited college or university and has 18 months of experience in the mortgage or lending field as evidenced by documentary proof of full-time employment as a mortgage broker or loan officer with a mortgage broker or a person exempt under Section 156.202;

(B) the person is licensed in this state as:

(i) an active real estate broker under The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes); or

(ii) an active attorney; or

(C) the person has three years of experience in the mortgage lending field as evidenced by documentary proof of full-time employment as a loan officer with a mortgage broker or a person exempt under Section 156.202;

(5) demonstrate evidence of compliance with the financial requirements of this chapter; and

(6) not have been convicted of a criminal offense that the commissioner determines directly relates to the occupation of a mortgage broker under Article 6252-13c, Revised Statutes.

(b) A mortgage broker may conduct business under a corporate structure, partnership, or any other business form or as an independent contractor for a corporation, partnership, or any other business entity. Before conducting mortgage broker activities under, through, or for a corporation, partnership, or other business entity, a mortgage broker must notify the commissioner, in writing, of any corporate name, partnership name, assumed name, or any other name under, through, or for which the mortgage broker conducts activities for which a license is required under this chapter. The corporation, partnership, or other business entity under, through, or for which the mortgage broker conducts business is not required to be separately licensed as a mortgage broker provided that all individuals who perform mortgage broker activities are licensed as mortgage brokers or loan officers. The commissioner shall require proof of compliance with this subsection at the time the mortgage broker applies for and renews a license.

(c) To be eligible to be licensed as a loan officer a person must:

(1) be an individual who is at least 18 years of age;

(2) be a citizen of the United States or a lawfully admitted alien;

(3) designate in the application the name of the mortgage broker sponsoring the loan officer;

(4) provide the commissioner with satisfactory evidence that the applicant satisfies one of the following:

(A) the person meets one of the requirements described by Subsection (a)(4);

(B) the person has successfully completed 15 hours of education courses approved by the commissioner under this section;

(C) the person has 18 months of experience as a loan officer as evidenced by documentary proof of full-time employment as a loan officer with a mortgage broker or a person exempt under Section 156.202; or

(D) for applications received prior to January 1, 2000, the mortgage broker that will sponsor the applicant provides a certification under oath that the applicant has been provided necessary and appropriate education and training regarding all applicable state and federal law and regulations relating to mortgage loans; and

(5) not have been convicted of a criminal offense that the commissioner determines directly relates to the occupation of a loan officer under Article 6252-13c, Revised Statutes.

Sec. 156.205. FINANCIAL REQUIREMENTS FOR A MORTGAGE BROKER.

(a) In this section, "net assets" means the difference between total assets and total liabilities, as determined by generally acceptable accounting principles.

(b) A mortgage broker must maintain net assets of at least \$25,000 or a surety bond in the amount of at least \$50,000. The term of the surety bond must coincide with the term of the license.

(c) The commissioner shall require proof of compliance with this section at the time the mortgage broker applies for or renews a license.

Sec. 156.206. CRIMINAL BACKGROUND CHECK. (a) On receipt of an application for a mortgage broker license or a loan officer license, the commissioner shall conduct a criminal background check of the applicant.

(b) The commissioner shall obtain criminal history record information on an applicant that is maintained by the Department of Public Safety. By rule, the commissioner may require applicants to submit information and fingerprints necessary for the commissioner to obtain criminal background information from the Federal Bureau of Investigation. The commissioner may also obtain criminal history record information from any court or any local, state, or national governmental agency.

(c) The commissioner shall keep confidential any criminal background information obtained under this subsection and may not release or disclose the information unless:

(1) the information is a public record at the time the commissioner obtains the information; or

(2) the commissioner releases the information:

(A) under order from a court;

(B) with the permission of the applicant;

(C) to a person through whom the applicant is conducting or will conduct business; or

(D) to a governmental agency.

Sec. 156.207. ISSUANCE OF LICENSE CERTIFICATE; PROVISIONAL LICENSE. (a) The commissioner shall issue a license certificate to an applicant for a mortgage broker license if the commissioner finds that the applicant meets all requirements and conditions for the license.

(b) When an applicant for a loan officer license has met all requirements and conditions for the license, the commissioner shall issue a license certificate to the mortgage broker sponsoring the loan officer.

(c) In accordance with any rules adopted under this subsection, the commissioner may issue a provisional license to an applicant if a significant delay is necessary to process the application, review information related to the application, or obtain information related to the application. The commissioner may revoke a provisional

license issued under this subsection on a ground listed under Section 156.303 or on any ground that the commissioner could have denied issuance of the license on the application.

Sec. 156.208. RENEWALS. (a) A mortgage broker license issued under this chapter is valid for two years and may be renewed on or before its expiration date if the mortgage broker:

(1) pays to the commissioner a renewal fee in an amount determined by the commissioner not to exceed \$375 and a recovery fund fee provided by Section 156.502;

(2) has not been convicted of a felony the commissioner determines is directly related to the occupation of a mortgage broker under Article 6252-13c, Revised Statutes; and

(3) provides the commissioner with satisfactory evidence that the mortgage broker:

(A) has attended, during the term of the current license, 15 hours of continuing education courses that the commissioner, in accordance with the rules adopted under this section, has approved as continuing education courses; or

(B) maintains an active license in this state as a real estate broker, real estate salesperson, or attorney.

(b) A loan officer license issued under this chapter is valid for two years and may be renewed on or before its expiration date if the loan officer:

(1) pays to the commissioner a renewal fee in an amount determined by the commissioner not to exceed \$175 and a recovery fund fee provided by Section 156.502;

(2) has not been convicted of a felony the commissioner determines is directly related to the occupation of a loan officer under Article 6252-13c, Revised Statutes; and

(3) provides the commissioner with satisfactory evidence that the loan officer:

(A) has attended, during the term of the current license, 15 hours of continuing education courses that the commissioner, in accordance with the rules adopted under this section, has approved as continuing education courses, including courses provided by or through the licensed mortgage broker with whom the loan officer is associated after submission to and approval by the commission; or

(B) maintains an active license in this state as a real estate broker, real estate salesperson, or attorney.

(c) The commissioner may require mortgage brokers or loan officers to submit requests for renewal on a form prescribed by the commissioner.

(d) On receipt of a request for a renewal of a license issued under this subchapter, the commissioner may conduct a criminal background check under Section 156.206.

(e) A renewal fee is not refundable.

(f) The commissioner by rule may adopt a system under which licenses expire on a date or dates other than December 31. If a system is adopted under this subsection, dates relating to expiration and issuance of licenses shall be adjusted accordingly. For the biennium in which the license expiration date is changed, license fees shall be prorated on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

(g) The commissioner shall adopt rules related to the approval of courses for continuing education credit under this section that provide for the acceptance of continuing education courses that are related to finance, financial consulting, lending, real estate contracts, discrimination laws, deceptive trade practices, real property conveyances, and other topics that are relevant to mortgage brokers and that are acceptable as continuing education courses to other professional licensing agencies.

Sec. 156.209. DENIAL OF APPLICATIONS AND RENEWALS. (a) If the commissioner declines or fails to issue or renew a license, the commissioner shall promptly give written notice to the applicant or the person requesting the renewal that the application or renewal, as appropriate, was denied.

(b) Before the applicant or person requesting the renewal may appeal to a district court as provided by Section 156.401, the applicant or person must file with the commissioner, not later than the 10th day after the date on which notice under Subsection (a) is received, an appeal of the ruling requesting a time and place for a hearing before a hearings officer designated by the commissioner.

(c) The designated hearings officer shall set the time and place for a hearing requested under Subsection (b) not later than the 30th day after the date on which the appeal is received. The hearings officer shall provide at least 10 days' notice of the hearing to the applicant or person requesting the renewal. The time of the hearing may be continued periodically with the consent of the applicant or person requesting the renewal. After the hearing, the commissioner shall enter an order from the findings of fact, conclusions of law, and recommendations of the hearings officer.

(d) If an applicant or person requesting the renewal fails to request a hearing under this section, the commissioner's refusal to issue or renew a license is final and may not be subject to review by the courts.

(e) A hearing held under this section is governed by Chapter 2001, Government Code. An appeal of a final order issued under this section may be made in accordance with Section 156.401.

Sec. 156.210. PROBATIONARY LICENSE. The commissioner may issue a probationary license. The commissioner by rule shall adopt reasonable terms and conditions for a probationary license.

Sec. 156.211. CHANGE OF ADDRESS OR SPONSORSHIP; MODIFICATION OF LICENSE. (a) Before the 10th day preceding the effective date of an address change, a mortgage broker shall notify the commissioner in writing of the new address accompanied by a change of address fee of \$25. A new license certificate must be obtained before the mortgage broker may conduct business at the new location.

(b) A loan officer may act only for the mortgage broker sponsoring the loan officer. A loan officer may be sponsored by only one mortgage broker at a time. When the sponsorship of a loan officer is terminated, the loan officer and the mortgage broker shall immediately notify the commissioner and the mortgage broker shall return the loan officer license to the commissioner. The loan officer's license then becomes inactive. The loan officer license may be activated if, before the license expires, a mortgage broker files a request, accompanied by a \$25 fee, notifying the commissioner that the mortgage broker will sponsor the loan officer and will assume responsibility for the actions of the loan officer.

(c) A fee under this section is not refundable.

Sec. 156.212. MAINTENANCE AND LOCATION OF OFFICES; DISPLAY OF LICENSE CERTIFICATES. (a) Each mortgage broker licensed under this

chapter shall maintain a physical office in this state. The address of the office shall be designated on the license certificate.

(b) If a mortgage broker maintains more than one place of business in this state, the mortgage broker shall apply for, pay a fee of \$50 for, and obtain an additional license certificate to be known as a branch office license for each additional office to be maintained by the mortgage broker.

(c) The license certificate of a mortgage broker shall be at all times prominently displayed in the mortgage broker's place of business. The branch office certificate shall be at all times prominently displayed in the mortgage broker's branch office.

(d) A loan officer license certificate shall be at all times prominently displayed in the office of the mortgage broker for whom the loan officer primarily conducts business.

[Sections 156.213 to 156.300 reserved for expansion]

SUBCHAPTER D. LICENSE REVOCATION
AND SUSPENSION AND OTHER ACTIONS
AGAINST LICENSE HOLDER

Sec. 156.301. COMPLAINTS AND INVESTIGATIONS. (a) On the signed written complaint of a person, the commissioner shall investigate the actions and records of a person licensed under this chapter if the complaint, or the complaint and documentary or other evidence presented in connection with the complaint, provides reasonable cause. The commissioner, before commencing an investigation, shall notify a mortgage broker or loan officer in writing of the complaint and that the commissioner intends to investigate the matter.

(b) Except as provided by Subsection (a), the commissioner may not initiate an investigation or other action against a person licensed under this chapter on the basis of an anonymous complaint regardless of whether the complaint is in writing. The commissioner may conduct an undercover or covert investigation only if the commissioner, after due consideration of the circumstances, determines that the investigation is necessary to prevent immediate harm and to carry out the purposes of this chapter.

(c) The commissioner may authorize an employee of the commissioner to file a signed written complaint against a person licensed under this chapter and to conduct an investigation if:

(1) a judgment against the person has been paid from a recovery fund established under this chapter;

(2) the person holds a provisional license issued under Section 156.207(c);

(3) the person is convicted of a criminal offense that may constitute grounds for the suspension or revocation of the license; or

(4) the person fails to honor a check issued to the commissioner.

Sec. 156.302. ADMINISTRATIVE PENALTY. (a) The commissioner may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) The amount of the penalty may not exceed \$2,500, and each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

- (2) the history of previous violations;
- (3) the amount necessary to deter a future violation;
- (4) efforts to correct the violation; and
- (5) any other matter that justice may require.

(c) The enforcement of the penalty may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the commissioner to contest the affidavit as provided by those rules.

(d) The attorney general may sue to collect the penalty.

(e) A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

Sec. 156.303. DISCIPLINARY ACTION; CEASE AND DESIST ORDER.

(a) The commissioner may order disciplinary action against a licensed mortgage broker or a licensed loan officer when the commissioner, after a hearing, has determined that the person:

(1) obtained a license under this chapter through a false or fraudulent representation or made a material misrepresentation in an application for a license under this chapter;

(2) published or caused to be published an advertisement related to the business of a mortgage broker or loan officer that:

(A) is misleading;

(B) is likely to deceive the public;

(C) in any manner tends to create a misleading impression;

(D) fails to identify as a mortgage broker or loan officer the person causing the advertisement to be published; or

(E) violates federal or state law;

(3) while performing an act for which a license under this chapter is required, engaged in conduct that constitutes improper, fraudulent, or dishonest dealings;

(4) failed to notify the commissioner not later than the 30th day after the date of the final conviction if the person, in a court of this or another state or in a federal court, has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud;

(5) failed to use a fee collected in advance of closing of a mortgage loan for a purpose for which the fee was paid;

(6) charged or received, directly or indirectly, a fee for assisting a mortgage applicant in obtaining a mortgage loan before all of the services that the person agreed to perform for the mortgage applicant are completed, and the proceeds of the mortgage loan have been disbursed to or on behalf of the mortgage applicant, except as provided by Section 156.304;

(7) failed within a reasonable time to honor a check issued to the commissioner after the commissioner has mailed a request for payment by certified mail to the person's last known business address as reflected by the commissioner's records;

(8) paid compensation to a person who is not licensed or exempt under this chapter for acts for which a license under this chapter is required;

(9) induced or attempted to induce a party to a contract to breach the contract so the person may make a mortgage loan;

(10) published or circulated an unjustified or unwarranted threat of legal proceedings in matters related to the person's actions or services as a mortgage broker or loan officer, as applicable;

(11) established an association, by employment or otherwise, with a person not licensed or exempt under this chapter who was expected or required to act as a mortgage broker or loan officer;

(12) aided, abetted, or conspired with a person to circumvent the requirements of this chapter;

(13) acted in the dual capacity of a mortgage broker or loan officer and real estate broker, salesperson, or attorney in a transaction without the knowledge and written consent of the mortgage applicant or in violation of applicable requirements under federal law;

(14) discriminated against a prospective borrower on the basis of race, color, religion, sex, national origin, ancestry, familial status, or a disability;

(15) failed or refused on demand to:

(A) produce a document, book, or record concerning a mortgage loan transaction conducted by the mortgage broker or loan officer for inspection by the commissioner or the commissioner's authorized personnel or representative;

(B) give the commissioner or the commissioner's authorized personnel or representative free access to the books or records relating to the person's business kept by an officer, agent, or employee of the person or any business entity through which the person conducts mortgage brokerage activities, including a subsidiary or holding company affiliate; or

(C) provide information requested by the commissioner as a result of a formal or informal complaint made to the commissioner;

(16) failed without just cause to surrender, on demand, a copy of a document or other instrument coming into the person's possession that was provided to the person by another person making the demand or that the person making the demand is under law entitled to receive; or

(17) disregarded or violated this chapter or a rule adopted by the commissioner under this chapter.

(b) In addition to disciplinary action by the commissioner authorized under Subsection (a), the commissioner, if the commissioner has reasonable cause to believe that a person licensed under this chapter has or is about to violate this section, may issue without notice and hearing an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter.

(c) An order issued under Subsection (b) must contain a reasonably detailed statement of the facts on which the order is made. If a person against whom the order is made requests a hearing, the commissioner shall set and give notice of a hearing before the commissioner or a hearings officer. The hearing shall be governed by Chapter 2001, Government Code. Based on the findings of fact, conclusions of law, and recommendations of the hearings officer, the commissioner by order may find a violation has occurred or not occurred.

(d) If a hearing is not requested under Subsection (c) not later than the 30th day after the date on which an order is made, the order is considered final and not appealable.

(e) The commissioner, after giving notice, may impose against a person who violates a cease and desist order an administrative penalty in an amount not to exceed \$1,000 for each day of the violation. In addition to any other remedy provided by law, the commissioner may institute in district court a suit for injunctive relief and to collect the administrative penalty. A bond is not required of the commissioner with respect to injunctive relief granted under this subsection. A penalty collected under this subsection shall be deposited in the fund.

Sec. 156.304. FEE ASSESSMENT AND DISCLOSURE. (a) Before the completion of all services to be performed, a mortgage broker may charge and receive, unless prohibited by law, the following fees for services in assisting a mortgage applicant to obtain a mortgage:

- (1) a fee to obtain a credit report;
- (2) a fee for the appraisal of the real estate;
- (3) a fee for processing a mortgage application;
- (4) a fee for taking a mortgage application;
- (5) a fee for automated underwriting;
- (6) a fee for a courier service;
- (7) a fee to issue a loan commitment; or
- (8) subject to Subsection (b), a fee for locking in an interest rate.

(b) A mortgage broker or loan officer may not charge or receive a fee for locking in an interest rate unless there is a written agreement signed by the mortgage applicant and mortgage broker that contains a statement of whether the fee to lock in the interest rate is refundable and, if so, the terms and conditions necessary to obtain the refund.

[Sections 156.305 to 156.400 reserved for expansion]

SUBCHAPTER E. HEARINGS: JUDICIAL REVIEW: CIVIL ACTIONS: UNLICENSED ACTIVITY

Sec. 156.401. HEARINGS AND JUDICIAL REVIEW. (a) The commissioner may employ an enforcement staff to investigate and prosecute complaints made against persons licensed under this chapter. The commissioner may employ a hearings officer to conduct hearings under this section.

(b) If the commissioner proposes to suspend or revoke a license issued under this chapter or if the commissioner refuses to issue or renew a license to an applicant for a license or person requesting a renewal of a license under this chapter, the applicant or license holder is entitled to a hearing before the commissioner or a hearings officer who shall make a proposal for decision to the commissioner. The commissioner or hearings officer shall prescribe the time and place of the hearing. The hearing is governed by Chapter 2001, Government Code.

(c) The commissioner or hearings officer may issue subpoenas for the attendance of witnesses and the production of records or documents. Process issued by the commissioner or hearings officer may extend to all parts of the state and may be served by any person designated by the commissioner or hearings officer.

(d) An individual aggrieved by a ruling, order, or decision of the commissioner has the right to appeal to a district court in the county in which the hearing was held. An appeal under this subsection is governed by Chapter 2001, Government Code.

Sec. 156.402. CIVIL ACTIONS AND INJUNCTIVE RELIEF. (a) A mortgage applicant injured by a violation of this chapter may bring an action for recovery of actual monetary damages and reasonable attorney's fees and court costs.

(b) The commissioner, the attorney general, or a mortgage applicant may bring an action to enjoin a violation of this chapter.

(c) A remedy provided by this section is in addition to any other remedy provided by law.

Sec. 156.403. BURDEN OF PROOF TO ESTABLISH AN EXEMPTION. The burden of proving an exemption in a proceeding or action brought under this chapter is on the person claiming the benefit of the exemption.

Sec. 156.404. RELIANCE ON WRITTEN NOTICES FROM COMMISSIONER. A person does not violate this chapter with respect to an action taken or omission made in reliance on a written notice, written interpretation, or written report from the commissioner, unless a subsequent amendment to this chapter or a rule adopted under this chapter affects the commissioner's notice, interpretation, or report.

Sec. 156.405. COMPLETION OF MORTGAGE BROKER SERVICES. (a) On disbursement of mortgage proceeds to or on behalf of the mortgage applicant, the mortgage broker and loan officer who assisted the mortgage applicant in obtaining the mortgage loan are considered to have completed the performance of the mortgage broker's and loan officer's services for the mortgage applicant and owe no additional duties or obligations to the mortgage applicant with respect to the mortgage loan.

(b) This section does not limit or preclude the liability of a mortgage broker or loan officer for:

- (1) failing to comply with this chapter or a rule adopted under this chapter;
- (2) failing to comply with a provision of or duty arising under an agreement with a mortgage applicant or lender under this chapter; or
- (3) violating any other state or federal law.

Sec. 156.406. UNLICENSED ACTIVITY. (a) A person who is not exempt under this chapter and who acts as a mortgage broker or loan officer without first obtaining a license required under this chapter commits an offense. An offense under this subsection is a Class B misdemeanor. A second or subsequent conviction for an offense under this subsection shall be punished as a Class A misdemeanor.

(b) A person who received money, or the equivalent of money, as a fee or profit because of or in consequence of the person acting as a mortgage broker or loan officer without an active license or being exempt under this chapter is liable for damages in an amount that is not less than the amount of the fee or profit received and not to exceed three times the amount of the fee or profit received, as may be determined by the court. An aggrieved person may recover damages under this subsection in a court.

(c) If the commissioner has reasonable cause to believe that a person who is not licensed or exempt under this chapter has engaged, or is about to engage, in an act or practice for which a license is required under this chapter, the commissioner may issue without notice and hearing an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter. The order shall contain a reasonably detailed statement of the facts on which the order is made. If a person against whom the order is made requests a hearing, the commissioner shall set and give notice of a hearing before the commissioner or a hearings officer. The hearing shall be governed by Chapter 2001, Government Code. Based on the findings of fact, conclusions of law, and recommendations of the hearings officer, the commissioner by order may find a violation has occurred or not occurred.

(d) If a hearing has not been requested under Subsection (c) not later than the 30th day after the date the order is made, the order is considered final and not appealable. The commissioner, after giving notice, may impose against a person who violates a cease and desist order, an administrative penalty in an amount not to exceed \$1,000 for each day of a violation. In addition to any other remedy provided by law, the commissioner may institute in district court a suit for injunctive relief and to collect the administrative penalty. A bond is not required of the commissioner with respect to injunctive relief granted under this section. A penalty collected under this subsection shall be deposited in the fund.

[Sections 156.407 to 156.500 reserved for expansion]

SUBCHAPTER F. MORTGAGE BROKER RECOVERY FUND

Sec. 156.501. MORTGAGE BROKER RECOVERY FUND. (a) The commissioner shall establish and maintain a mortgage broker recovery fund as provided by this subchapter. The amounts received by the commissioner for deposit in the fund shall be held by the commissioner in trust for carrying out the purposes of the fund.

(b) The fund shall be used to reimburse aggrieved persons to whom a court awards actual damages because of certain acts committed by a mortgage broker or loan officer who was licensed under this chapter when the act was committed. The use of the fund is limited to an act that constitutes a violation of Section 156.303(a)(2), (3), (5), (6), (8), (9), (10), (11), (12), (13), or (16) or 156.304.

(c) Amounts in the fund may be invested and reinvested in the same manner as funds of the Texas State Employees Retirement System, and the interest from these investments shall be deposited to the credit of the fund. An investment may not be made under this subsection if the investment will impair the necessary liquidity required to satisfy judgment payments awarded under this subchapter.

Sec. 156.502. FUNDING. (a) On an application for an original license or for renewal of a license issued under this chapter, the applicant, in addition to paying the original application fee or renewal fee, shall pay a \$20 fee. The fee shall be deposited in the fund.

(b) If the balance remaining in the fund at the end of a calendar year after 2010 is less than \$500,000, each mortgage broker and loan officer licensed under this chapter, on the next renewal of the license, shall pay, in addition to any other required fees, the lesser of a \$10 fee or a pro rata share of the amount necessary to bring the fund to \$1 million. The fee shall be deposited in the fund.

(c) If the balance remaining in the mortgage broker recovery fund at the end of a calendar year is more than the greater of \$3.5 million or the total amount of claims paid from the fund during the previous four fiscal years, the amount of money in excess of the greater amount shall be transferred to the general revenue fund.

Sec. 156.503. STATUTE OF LIMITATIONS. An action for a judgment that subsequently results in an order for collection from the fund may not be instituted after the second anniversary of the date on which the cause of action accrues.

Sec. 156.504. PROCEDURE FOR RECOVERY. (a) An aggrieved person who recovers against a mortgage broker or loan officer licensed under this chapter a valid court judgment for conduct described by Section 156.501 that occurred on or after January 1, 2000, after final judgment has been entered, execution returned nulla bona, and a judgment lien perfected, may file a verified claim in the court in which the judgment was entered and, on 20 days' written notice to the commissioner and to the

judgment debtor, may apply to the court for an order directing payment from the fund of any unpaid judgment amount, subject to Section 156.503.

(b) On the hearing on the application, the aggrieved person is required to show:

(1) that the judgment is based on facts allowing recovery under Section 156.501;

(2) that the person is not a spouse of the debtor, or the personal representative of the spouse, and that the person is not licensed as a mortgage broker or loan officer under this chapter who is seeking to recover any compensation in the transaction or transactions for which the application for payment is made;

(3) that based on the best available information, the judgment debtor lacks sufficient attachable assets in this state or any other state to satisfy the judgment and the surety bond required by Section 156.205 is not sufficient to satisfy the judgment; and

(4) the amount that may be realized from the sale of property or other assets liable to be sold or applied in satisfaction of the judgment and the balance remaining due on the judgment after application of the amount that may be realized.

(c) A recovery on the judgment against a single defendant made before payment from the fund shall be applied first by the creditor to actual damages.

(d) The court shall make an order directed to the commissioner requiring payment from the fund of the amount the court finds to be payable on the claim, pursuant to and in accordance with the limitations contained in this subchapter, if the court is satisfied, on the hearing, of the truth of all matters required to be shown by the aggrieved person under Subsection (b) and that the aggrieved person has satisfied all of the requirements of this section.

(e) When the commissioner receives notice of entry of a final judgment and a hearing is scheduled under this section, the commissioner may notify the attorney general of the commissioner's desire to enter an appearance, file a response, appear at the court hearing, defend the action, or to take any other appropriate action. In taking any action described by this subsection, the commissioner and the attorney general shall act only to protect the fund from spurious or unjust claims or to ensure compliance with the requirements for recovery under this subchapter.

(f) The commissioner may relitigate any issue material and relevant in the hearing on the application that was determined in the underlying action on which the judgment in favor of the applicant was based.

(g) If the court finds that the aggregate amount of claims against a licensed mortgage broker or loan officer exceeds the limits contained in Section 156.505, the court shall reduce proportionately the amount the court finds payable on the claim.

Sec. 156.505. RECOVERY LIMITS. (a) A person entitled to receive payment out of the fund is entitled to receive reimbursement of actual, out-of-pocket damages, reasonable attorney's fees, and court costs as determined by the court as provided by this section.

(b) A payment from the fund may be made only pursuant to a court order as provided by Section 156.504. A payment for claims:

(1) arising out of the same transaction, including attorney's fees, interest, and court costs, is limited in the aggregate to \$25,000, regardless of the number of claimants; and

(2) based on judgments against a single person licensed as a mortgage broker or loan officer under this chapter is limited in the aggregate to \$50,000 until the fund has been reimbursed for all amounts paid.

Sec. 156.506. REVOCATION OF LICENSE FOR PAYMENT FROM FUND.

(a) The commissioner may revoke a license issued under this chapter on proof that the commissioner has made a payment from the fund of any amount toward satisfaction of a judgment against a person licensed as a mortgage broker or loan officer under this chapter.

(b) The commissioner may probate an order revoking a license under this section.

(c) A person on whose behalf payment was made from the fund is not eligible to receive a new license under this chapter until the person has repaid in full, plus interest at the current legal rate, the amount paid from the fund on the person's behalf.

(d) This section does not limit the authority of the commissioner to take disciplinary action against a mortgage broker or loan officer for a violation of this chapter or the rules adopted by the commissioner under this chapter. The repayment in full to the fund of all obligations of a mortgage broker or loan officer does not nullify or modify the effect of any other disciplinary proceeding brought under this chapter.

Sec. 156.507. SUBROGATION. When the commissioner has paid a judgment creditor an amount from the fund as directed by the court, the commissioner is subrogated to all of the rights of the judgment creditor to the extent of the amount paid. The judgment creditor shall assign all of the creditor's right, title, and interest in the judgment up to the amount paid by the commissioner, and that amount has priority for repayment in the event of any subsequent recovery on the judgment. Any amount, including interest, recovered by the commissioner on the judgment shall be deposited to the credit of the fund.

Sec. 156.508. FAILURE TO COMPLY WITH SUBCHAPTER. The failure of an aggrieved person to comply with a provision of this subchapter relating to the fund constitutes a waiver of any rights under this subchapter.

SECTION 3. Subsection (a), Section 393.002, Finance Code, is amended to read as follows:

(a) This chapter does not apply to:

(1) a person:

(A) authorized to make a loan or grant an extension of consumer credit under the laws of this state or the United States; and

(B) subject to regulation and supervision by this state or the United States;

(2) a lender approved by the United States secretary of housing and urban development for participation in a mortgage insurance program under the National Housing Act (12 U.S.C. Section 1701 et seq.);

(3) a bank or savings and loan association the deposits or accounts of which are eligible to be insured by the Federal Deposit Insurance Corporation or a subsidiary of the bank or association;

(4) a credit union doing business in this state;

(5) a nonprofit organization exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3));

(6) a real estate broker or salesman licensed under The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes) who is acting within the course and scope of that license;

(7) an individual licensed to practice law in this state who is acting within the course and scope of the individual's practice as an attorney;

(8) a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission acting within the course and scope of that regulation;

(9) a consumer reporting agency; ~~or~~

(10) a person whose primary business is making loans secured by liens on real property; or

(11) a mortgage broker or loan officer licensed under Chapter 156, Finance Code, who is acting within the course and scope of that license.

SECTION 4. Section 232.002, Family Code, is amended to read as follows:

Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER. The following ~~[state agencies]~~ are licensing authorities subject to this chapter:

- (1) Department of Agriculture;
- (2) Texas Commission on Alcohol and Drug Abuse;
- (3) Texas Alcoholic Beverage Commission;
- (4) Texas Appraiser Licensing and Certification Board;
- (5) Texas Board of Architectural Examiners;
- (6) State Board of Barber Examiners;
- (7) Texas Board of Chiropractic Examiners;
- (8) Comptroller of Public Accounts;
- (9) Texas Cosmetology Commission;
- (10) Court Reporters Certification Board;
- (11) State Board of Dental Examiners;
- (12) Texas State Board of Examiners of Dietitians;
- (13) Texas Funeral Service Commission;
- (14) Texas Department of Health;
- (15) Texas Department of Human Services;
- (16) Texas Board of Professional Land Surveying;
- (17) Texas Department of Licensing and Regulation;
- (18) Texas State Board of Examiners of Marriage and Family Therapists;
- (19) Texas State Board of Medical Examiners;
- (20) Midwifery Board;
- (21) Texas Natural Resource Conservation Commission;
- (22) Board of Nurse Examiners;
- (23) Texas Board of Occupational Therapy Examiners;
- (24) Texas Optometry Board;
- (25) Parks and Wildlife Department;
- (26) Texas State Board of Examiners of Perfusionists;
- (27) Texas State Board of Pharmacy;
- (28) Texas Board of Physical Therapy Examiners;
- (29) Texas State Board of Plumbing Examiners;
- (30) Texas State Board of Podiatric Medical Examiners;
- (31) Polygraph Examiners Board;
- (32) Texas Board of Private Investigators and Private Security Agencies;
- (33) Texas State Board of Examiners of Professional Counselors;
- (34) Texas ~~[State]~~ Board of ~~[Registration for]~~ Professional Engineers;
- (35) Department of Protective and Regulatory Services;
- (36) Texas State Board of Examiners of Psychologists;
- (37) Texas State Board of Public Accountancy;

- (38) Department of Public Safety of the State of Texas;
- (39) Public Utility Commission of Texas;
- (40) Railroad Commission of Texas;
- (41) Texas Real Estate Commission;
- (42) State Bar of Texas;
- (43) Texas State Board of Social Worker Examiners;
- (44) State Board of Examiners for Speech-Language Pathology and Audiology;
- (45) Texas Structural Pest Control Board;
- (46) Board of Tax Professional Examiners;
- (47) Secretary of State;
- (48) Supreme Court of Texas;
- (49) Texas Transportation Commission;
- (50) State Board of Veterinary Medical Examiners;
- (51) Board of Vocational Nurse Examiners;
- (52) Texas Ethics Commission;
- (53) Advisory Board of Athletic Trainers;
- (54) State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;
- (55) Texas Board of Licensure for Professional Medical Physicists;
- (56) Texas Department of Insurance; ~~and~~
- (57) Texas Board of Orthotics and Prosthetics; and
- (58) savings and loan commissioner.

SECTION 5. (a) This Act takes effect September 1, 1999.

(b) A person is not required to be licensed under Chapter 156, Finance Code, as added by this Act, before January 1, 2000.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1

Amend **CSSB 1074** by striking subsection (b) in SECTION 2 of the bill, proposed Section 156.201(b), Finance Code (House Committee Report, page 8, lines 26-27, and page 9, lines 1-3), and adding the following:

(b) An individual may not act or attempt to act as a loan officer unless the individual at the time is:

- (1) licensed under this chapter;
- (2) sponsored by a licensed mortgage broker and acting for the mortgage broker; or
- (3) exempt under Section 156.202.

Floor Amendment No. 2

Amend **CSSB 1074** as follows:

(1) In SECTION 2 of the bill, in proposed Section 156.204(a)(4), Finance Code (House Committee Report, page 11, lines 16-20), strike Paragraph (B) and substitute the following:

- (B) the person is licensed in this state as:
 - (i) an active real estate broker under The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes);

(ii) an active attorney; or
 (iii) a local recording agent or insurance solicitor or agent for a legal reserve life insurance company under Chapter 21, Insurance Code, or the equivalent licenses under Chapter 21, Insurance Code; or

(2) In SECTION 2 of the bill, in proposed Section 156.208(a)(3), Finance Code (House Committee Report, page 16, lines 4 and 5), strike Paragraph (B) and substitute the following:

(B) maintains an active license in this state as:

(i) a real estate broker;
 (ii) a real estate salesperson;
 (iii) an attorney; or
 (iv) a local recording agent or insurance solicitor or agent for a legal reserve life insurance company under Chapter 21, Insurance Code, or the equivalent licenses under Chapter 21, Insurance Code.

(3) In SECTION 2 of the bill, in proposed Section 156.208(b)(3), Finance Code (House Committee Report, page 16, lines 24 and 25), strike Paragraph (B) and substitute the following:

(B) maintains an active license in this state as:

(i) a real estate broker;
 (ii) a real estate salesperson;
 (iii) an attorney; or
 (iv) a local recording agent or insurance solicitor or agent for a legal reserve life insurance company under Chapter 21, Insurance Code, or the equivalent licenses under Chapter 21, Insurance Code.

The amendments were read.

On motion of Senator Carona, the Senate concurred in the House amendments to **SB 1074** by a viva voce vote.

STATEMENT OF LEGISLATIVE INTENT

Senator Carona submitted the following statement of legislative intent for House Amendment No. 1 to **SB 1074**:

With regards to **SB 1074**, relating to the licensing of mortgage brokers; providing penalties, it is both my intent and the intent of Representative Averitt, the House author of the bill, that any person licensed under this Act as a loan officer must also be sponsored by a licensed mortgage broker and acting for the mortgage broker.

CARONA

SENATE BILL 851 WITH HOUSE AMENDMENT

Senator Shapleigh called **SB 851** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 851** as follows:

In SECTION 2, Subsection (a), Article 24.03, Code of Criminal Procedure, delete "[and placed with the papers in the cause]" (HOUSE COMMITTEE

REPORT, page 1, lines 20 and 21) and insert "and placed with the papers in the cause" in its place.

The amendment was read.

Senator Shapleigh moved to concur in the House amendment to **SB 851**.

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

Absent-excused: Luna.

SENATE BILL 1881 WITH HOUSE AMENDMENT

Senator Nixon called **SB 1881** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1881** as follows:

(1) In SECTION 1 of the bill, strike proposed Subsection (a), Section 10, Chapter 431, Acts of the 60th Legislature, Regular Session, 1967 (Senate Engrossment, page 5, lines 3 through 15), and substitute the following:

(a) Except as provided by Subsection (i), the [The] board of directors of such district shall have the power to prescribe the method and manner of making purchases and expenditures by and for such hospital district, and also shall be authorized to prescribe all accounting and control procedures. In making purchases, the board may determine the method of purchase that provides the best value to the district, including:

- (1) competitive bidding;
- (2) competitive sealed proposals;
- (3) catalogue purchase;
- (4) a group purchasing program; or
- (5) an open market contract.

(2) In SECTION 1 of the bill, strike proposed Subsection (i), Section 10, Chapter 431, Acts of the 60th Legislature, Regular Session, 1967 (Senate Engrossment, page 6, lines 21 through 26), and substitute the following:

(i) All contracts for construction or purchases of equipment involving the expenditure of more than \$25,000 [\$10,000] may be made only after advertising in the manner provided by Subchapter B, Chapter 271, Local Government Code. The provisions of Article 5160 relating to performance and payment bonds shall apply to construction contracts let by the district.

The amendment was read.

Senator Nixon moved to concur in the House amendment to **SB 1881**.

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

Absent-excused: Luna.

SENATE BILL 486 WITH HOUSE AMENDMENTS

Senator Brown called **SB 486** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 2

Amend **SB 486** by striking Subsection (b) of SECTION 5 of the bill (House Committee Printing, page 4, lines 18 through 20) and substituting a new Subsection (b) to read as follows:

(b) The changes in law made by Sections 2, 3, and 4 of this Act apply only to an application filed after September 1, 1999, if an ordinance has been adopted by a commissioners court by September 1, 1999. The changes in law made by Sections 2, 3, and 4 of this Act also apply to an application filed between September 1, 1998, and September 1, 1999, unless the commissioners court published notice by September 1, 1999, in accordance with any applicable notice provisions of Chapter 551 Government Code, of intent to enact an ordinance and the ordinance has been enacted by January 1, 2000.

Floor Amendment No. 5

Amend **SB 486** by adding the following section, appropriately numbered, and renumbering the subsequent sections of the bill accordingly:

SECTION ____ Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.118 to read as follows:

Sec. 361.118. REMEDIAL ACTION REGARDING INDUSTRIAL SOLID WASTE DISPOSED OF IN MUNICIPAL SOLID WASTE LANDFILL FACILITY.

(a) This section applies only to a municipal solid waste landfill facility:

(1) for which the commission has issued a permit; and

(2) a portion of which:

(A) has been used for the disposal of more than 15,000 barrels of industrial solid waste;

(B) is closed; and

(C) is the subject of a notice regarding the former use of the property recorded in the real property records of the county in which the facility is located.

(b) In the event of a release or threatened release into the environment of industrial solid waste disposed of in the portion of the facility that has been closed, the commission shall require the owner of the facility to remediate as necessary and to the extent practicable to prevent or minimize the release of the waste so that the waste does not migrate or have the potential to migrate.

(c) If the commission requires the owner of the facility to remediate under Subsection (b), the owner shall develop a remedial action plan and must obtain a major amendment to the permit for the facility approving the plan.

(d) This section does not limit the applicability of Section 26.121, Water Code.

Floor Amendment No. 1 on Third Reading

Amend **SB 486**, on third reading, by striking Subsection (b), SECTION 5 of the bill (transition language), as amended by the Zbranek amendment, and substituting a new Subsection (b) to read as follows:

(b) The changes in law made by this Act to Sections 361.152, 363.112, and 364.012, Health and Safety Code, do not apply to an application filed:

(1) before September 1, 1998, if the county commissioners court has, on or before September 1, 1999, enacted an ordinance or adopted an order under Section 363.112 or 364.012, Health and Safety Code; or

(2) on or after September 1, 1998, but before September 1, 1999, if the county commissioners court has, on or before September 1, 1999, provided notice in accordance with Chapter 551, Government Code, of its intent to enact an ordinance or adopt an order under Section 363.112 or 364.012, Health and Safety Code, and the ordinance or order is effective on or before January 1, 2000.

Floor Amendment No. 2 on Third Reading

Amend **SB 486**, on third reading, by amending the Dukes Amendment (Second reading amendment no. 5), which added Section 361.118(b), Health and Safety Code (Dukes amendment page 1, line 18), by striking "In the event of a release or threatened release" and by substituting "If the commission determines that there is a release or that a release is imminent"

The amendments were read.

On motion of Senator West, the Senate concurred in the House amendments to **SB 486** by a viva voce vote.

SENATE BILL 1423 WITH HOUSE AMENDMENT

Senator West called **SB 1423** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1423** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to providing supplemental financial assistance and services to certain grandparents.

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

SECTION 1. Subchapter A, Chapter 31, Human Resources Code, is amended by adding Section 31.0041 to read as follows:

Sec. 31.0041. SUPPLEMENTAL FINANCIAL ASSISTANCE FOR CERTAIN PERSONS. (a) The department shall provide supplemental financial assistance in addition to the amount of financial assistance granted for the support of a dependent child under Section 31.003 to a person who:

(1) is 45 years of age or older;

(2) is the grandparent of the dependent child, as defined by Section 31.002, who lives at the person's residence;

(3) is the primary caretaker of the dependent child; and

(4) has a family income that is at or below 200 percent of the federal poverty level.

(b) Supplemental financial assistance provided to a person for the support of a dependent child under this section must include:

(1) a one-time cash payment of \$1,000 on determination of eligibility for supplemental financial assistance under this section; and

(2) an annual school subsidy in an amount set by the department from available funds for each dependent child who:

- (A) lives at the person's residence;
- (B) is the person's grandchild; and
- (C) is eligible for financial assistance under this chapter.

(c) The department shall inform an applicant for financial assistance under this chapter who meets the eligibility requirements under Subsection (a) of the availability of supplemental financial assistance.

(d) The department shall maintain complete records and compile statistics regarding the number of households that receive supplemental financial assistance under this section.

SECTION 2. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.070 to read as follows:

Sec. 40.070. SUPPORT SERVICES FOR CERTAIN FAMILIES. (a) If the department places a child who is in the conservatorship of the state in the home of a grandparent of the child, the department shall:

- (1) refer the grandparent to support services offered by the department; and
- (2) inform the grandparent of the availability of financial assistance under Chapter 31, including supplemental financial assistance, if the eligibility requirements of that chapter are satisfied.

(b) The department shall maintain complete records and compile statistics regarding the number of children who are placed by the department in the home of a grandparent of the child.

SECTION 3. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 4. This Act takes effect September 1, 1999.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

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

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **SB 1423** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators West, Chair; Lindsay, Bernsen, Nelson, and Harris.

SENATE BILL 30 WITH HOUSE AMENDMENTS

Senator Shapiro called **SB 30** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 30** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to parental notification before an abortion may be performed on certain minors; providing a criminal penalty.

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

SECTION 1. Subtitle A, Title 2, Family Code, is amended by adding Chapter 33 to read as follows:

CHAPTER 33. NOTICE OF ABORTION

Sec. 33.001. DEFINITIONS. In this chapter:

(1) "Abortion" has the meaning assigned by Section 4.011(a), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes). This definition, as applied in this chapter, applies only to an unemancipated minor known by the attending physician to be pregnant and may not be construed to limit a minor's access to contraceptives.

(2) "Guardian" means a court-appointed guardian of the person of the minor.

(3) "Physician" means an individual licensed to practice medicine in this state.

(4) "Unemancipated minor" includes a minor who:

(A) is unmarried; and

(B) has not had the disabilities of minority removed under Chapter 31.

Sec. 33.002. PARENTAL NOTICE. (a) A physician may not perform an abortion on a pregnant unemancipated minor unless:

(1) the physician performing the abortion gives at least 48 hours actual notice, in person or by telephone, of the physician's intent to perform the abortion to:

(A) a parent of the minor, if the minor has no managing conservator or guardian; or

(B) a court-appointed managing conservator or guardian;

(2) the judge of a court having probate jurisdiction, the judge of a county court at law, the judge of a district court, including a family district court, or a court of appellate jurisdiction issues an order authorizing the minor to consent to the abortion as provided by Section 33.003 or 33.004;

(3) a probate court, county court at law, district court, including a family district court, or court of appeals, by its inaction, constructively authorizes the minor to consent to the abortion as provided by Section 33.003 or 33.004; or

(4) the physician performing the abortion:

(A) concludes that on the basis of the physician's good faith clinical judgment, a condition exists that complicates the medical condition of the pregnant minor and necessitates the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial and irreversible impairment of a major bodily function; and

(B) certifies in writing to the Texas Department of Health and in the patient's medical record the medical indications supporting the physician's judgment that the circumstances described by Paragraph (A) exist.

(b) If a person to whom notice may be given under Subsection (a)(1) cannot be notified after a reasonable effort, a physician may perform an abortion if the physician gives 48 hours constructive notice, by certified mail, restricted delivery, sent to the last known address, to the person to whom notice may be given under Subsection (a)(1). The period under this subsection begins when the notice is mailed. If the person required to be notified is not notified within the 48-hour period, the abortion may proceed even if the notice by mail is not received.

(c) The requirement that 48 hours actual notice be provided under this section may be waived by an affidavit of:

(1) a parent of the minor, if the minor has no managing conservator or guardian; or

(2) a court-appointed managing conservator or guardian.

(d) A physician may execute for inclusion in the minor's medical record an affidavit stating that, according to the best information and belief of the physician, notice or constructive notice has been provided as required by this section. Execution of an affidavit under this subsection creates a conclusive presumption that the requirements of this section have been satisfied.

(e) The Texas Department of Health shall prepare a form to be used for making the certification required by Subsection (a)(4).

(f) A certification required by Subsection (a)(4) is confidential and privileged and is not subject to disclosure under Chapter 552, Government Code, or to discovery, subpoena, or other legal process. Personal or identifying information about the minor, including her name, address, or social security number, may not be included in a certification under Subsection (a)(4). The physician must keep the medical records on the minor in compliance with the rules adopted by the Texas State Board of Medical Examiners under Section 5.085, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

(g) A physician who intentionally performs an abortion on a pregnant unemancipated minor in violation of this section commits an offense. An offense under this subsection is a Class A misdemeanor. In this subsection, "intentionally" has the meaning assigned by Section 6.03(a), Penal Code.

(h) It is a defense to prosecution under this section that the minor falsely represented her age or identity to the physician to be at least 18 years of age by displaying an apparently valid governmental record of identification such that a reasonable person under similar circumstances would have relied on the representation. The defense does not apply if the physician is shown to have had independent knowledge of the minor's actual age or identity or failed to use due diligence in determining the minor's age or identity. In this subsection, "defense" has the meaning and application assigned by Section 2.03, Penal Code.

(i) In relation to the trial of an offense under this section in which the conduct charged involves a conclusion made by the physician under Subsection (a)(4), the defendant may seek a hearing before the Texas State Board of Medical Examiners on whether the physician's conduct was necessary to avert the death of the minor or to avoid a serious risk of substantial and irreversible impairment of a major bodily function. The findings of the Texas State Board of Medical Examiners under this

subsection are admissible on that issue in the trial of the defendant. On motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit a hearing under this subsection to take place.

Sec. 33.003. JUDICIAL APPROVAL. (a) A pregnant minor who wishes to have an abortion without notification to one of her parents, her managing conservator, or her guardian may file an application for a court order authorizing the minor to consent to the performance of an abortion without notification to either of her parents or a managing conservator or guardian.

(b) The application may be filed in any county court at law, court having probate jurisdiction, or district court, including a family district court, in this state.

(c) The application must be made under oath and include:

(1) a statement that the minor is pregnant;

(2) a statement that the minor is unmarried, is under 18 years of age, and has not had her disabilities removed under Chapter 31;

(3) a statement that the minor wishes to have an abortion without the notification of either of her parents or a managing conservator or guardian; and

(4) a statement as to whether the minor has retained an attorney and, if she has retained an attorney, the name, address, and telephone number of her attorney.

(d) The clerk of the court shall deliver a courtesy copy of the application made under this section to the judge who is to hear the application.

(e) The court shall appoint a guardian ad litem for the minor. If the minor has not retained an attorney, the court shall appoint an attorney to represent the minor. If the guardian ad litem is an attorney admitted to the practice of law in this state, the court may appoint the guardian ad litem to serve as the minor's attorney.

(f) The court may appoint to serve as guardian ad litem:

(1) a person who may consent to treatment for the minor under Sections 32.001(a)(1)-(3);

(2) a psychiatrist or an individual licensed or certified as a psychologist under the Psychologists' Licensing Act (Article 4512c, Vernon's Texas Civil Statutes);

(3) an appropriate employee of the Department of Protective and Regulatory Services;

(4) a member of the clergy; or

(5) another appropriate person selected by the court.

(g) The court shall fix a time for a hearing on an application filed under Subsection (a) and shall keep a record of all testimony and other oral proceedings in the action. The court shall enter judgment on the application immediately after the hearing is concluded.

(h) The court shall rule on an application submitted under this section and shall issue written findings of fact and conclusions of law not later than 5 p.m. on the second business day after the date the application is filed with the court. On request by the minor, the court shall grant an extension of the period specified by this subsection. If a request for an extension is made, the court shall rule on an application and shall issue written findings of fact and conclusions of law not later than 5 p.m. on the second business day after the date the minor states she is ready to proceed to hearing. If the court fails to rule on the application and issue written findings of fact and conclusions of law within the period specified by this subsection, the application is deemed to be granted and the physician may perform the abortion as if the court had issued an order authorizing the minor to consent to the performance of the abortion without

notification under Section 33.002. Proceedings under this section shall be given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly.

(i) The court shall determine by a preponderance of the evidence whether the minor is mature and sufficiently well informed to make the decision to have an abortion performed without notification to either of her parents or a managing conservator or guardian, whether notification would not be in the best interest of the minor, or whether notification may lead to physical, sexual, or emotional abuse of the minor. If the court finds that the minor is mature and sufficiently well informed, that notification would not be in the minor's best interest, or that notification may lead to physical, sexual, or emotional abuse of the minor, the court shall enter an order authorizing the minor to consent to the performance of the abortion without notification to either of her parents or a managing conservator or guardian and shall execute the required forms.

(j) If the court finds that the minor does not meet the requirements of Subsection (i), the court may not authorize the minor to consent to an abortion without the notification authorized under Section 33.002(a)(1).

(k) The court may not notify a parent, managing conservator, or guardian that the minor is pregnant or that the minor wants to have an abortion. The court proceedings shall be conducted in a manner that protects the anonymity of the minor. The application and all other court documents pertaining to the proceedings are confidential and privileged and are not subject to disclosure under Chapter 552, Government Code, or to discovery, subpoena, or other legal process. The minor may file the application using a pseudonym or using only her initials.

(l) An order of the court issued under this section is confidential and privileged and is not subject to disclosure under Chapter 552, Government Code, or discovery, subpoena, or other legal process. The order may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's attorney, another person designated to receive the order by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor. The supreme court may adopt rules to permit confidential docketing of an application under this section.

(m) The clerk of the supreme court shall prescribe the application form to be used by the minor filing an application under this section.

(n) A filing fee is not required of and court costs may not be assessed against a minor filing an application under this section.

Sec. 33.004. APPEAL. (a) A minor whose application under Section 33.003 is denied may appeal to the court of appeals having jurisdiction over civil matters in the county in which the application was filed. On receipt of a notice of appeal, the clerk of the court that denied the application shall deliver a copy of the notice of appeal and record on appeal to the clerk of the court of appeals. On receipt of the notice and record, the clerk of the court of appeals shall place the appeal on the docket of the court.

(b) The court of appeals shall rule on an appeal under this section not later than 5 p.m. on the second business day after the date the notice of appeal is filed with the court that denied the application. On request by the minor, the court shall grant an extension of the period specified by this subsection. If a request for an extension is made, the court shall rule on the appeal not later than 5 p.m. on the second business day after the date the minor states she is ready to proceed. If the court of appeals fails to

rule on the appeal within the period specified by this subsection, the appeal is deemed to be granted and the physician may perform the abortion as if the court had issued an order authorizing the minor to consent to the performance of the abortion without notification under Section 33.002. Proceedings under this section shall be given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly.

(c) A ruling of the court of appeals issued under this section is confidential and privileged and is not subject to disclosure under Chapter 552, Government Code, or discovery, subpoena, or other legal process. The ruling may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's attorney, another person designated to receive the ruling by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor. The supreme court may adopt rules to permit confidential docketing of an appeal under this section.

(d) The clerk of the supreme court shall prescribe the notice of appeal form to be used by the minor appealing a judgment under this section.

(e) A filing fee is not required of and court costs may not be assessed against a minor filing an appeal under this section.

(f) An expedited confidential appeal shall be available to any pregnant minor to whom a court of appeals denies an order authorizing the minor to consent to the performance of an abortion without notification to either of her parents or a managing conservator or guardian.

Sec. 33.005. AFFIDAVIT OF PHYSICIAN. (a) A physician may execute for inclusion in the minor's medical record an affidavit stating that, after reasonable inquiry, it is the belief of the physician that:

(1) the minor has made an application or filed a notice of an appeal with a court under this chapter;

(2) the deadline for court action imposed by this chapter has passed; and

(3) the physician has been notified that the court has not denied the application or appeal.

(b) A physician who in good faith has executed an affidavit under Subsection (a) may conclusively rely on the affidavit and may perform the abortion as if the court had issued an order granting the application or appeal.

Sec. 33.006. GUARDIAN AD LITEM IMMUNITY. A guardian ad litem appointed under this chapter and acting in the course and scope of the appointment is not liable for damages arising from an act or omission of the guardian ad litem committed in good faith. The immunity granted by this section does not apply if the conduct of the guardian ad litem is committed in a manner described by Sections 107.003(b)(1)-(4).

Sec. 33.007. COSTS PAID BY STATE. (a) A court acting under Section 33.003 or 33.004 may issue an order requiring the state to pay:

(1) the cost of any attorney ad litem and any guardian ad litem appointed for the minor;

(2) notwithstanding Sections 33.003(n) and 33.004(e), the costs of court associated with the application or appeal; and

(3) any court reporter's fees incurred.

(b) An order issued under Subsection (a) must be directed to the comptroller, who shall pay the amount ordered from funds appropriated to the Texas Department of Health.

Sec. 33.008. PHYSICIAN'S DUTY TO REPORT ABUSE OF A MINOR; INVESTIGATION AND ASSISTANCE. (a) A physician who has reason to believe that a minor has been or may be physically or sexually abused by a person responsible for the minor's care, custody, or welfare, as that term is defined by Section 261.001, shall immediately report the suspected abuse to the Department of Protective and Regulatory Services and shall refer the minor to the department for services or intervention that may be in the best interest of the minor.

(b) The Department of Protective and Regulatory Services shall investigate suspected abuse reported under this section and, if appropriate, shall assist the minor in making an application with a court under Section 33.003.

Sec. 33.009. OTHER REPORTS OF SEXUAL ABUSE OF A MINOR. A court or the guardian ad litem or attorney ad litem for the minor shall report conduct reasonably believed to violate Section 22.011, 22.021, or 25.02, Penal Code, based on information obtained during a confidential court proceeding held under this chapter to:

(1) any local or state law enforcement agency;

(2) the Department of Protective and Regulatory Services, if the alleged conduct involves a person responsible for the care, custody, or welfare of the child;

(3) the state agency that operates, licenses, certifies, or registers the facility in which the alleged conduct occurred, if the alleged conduct occurred in a facility operated, licensed, certified, or registered by a state agency; or

(4) an appropriate agency designated by the court.

Sec. 33.010. CONFIDENTIALITY. Notwithstanding any other law, information obtained by the Department of Protective and Regulatory Services or another entity under Section 33.008 or 33.009 is confidential except to the extent necessary to prove a violation of Section 22.011, 22.021, or 25.02, Penal Code.

SECTION 2. The supreme court shall issue promptly such rules as may be necessary in order that the process established by Sections 33.003 and 33.004, Family Code, as added by this Act, may be conducted in a manner that will ensure confidentiality and sufficient precedence over all other pending matters to ensure promptness of disposition.

SECTION 3. This Act takes effect September 1, 1999.

SECTION 4. Chapter 33, Family Code, as added by this Act, applies only to an abortion performed on or after January 1, 2000. An abortion performed before January 1, 2000, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. The Texas Board of Health shall adopt the form to be used under Subdivision (4), Subsection (a), Section 33.002, Family Code, as added by this Act, not later than December 15, 1999.

SECTION 6. The clerk of the supreme court shall adopt the application form and notice of appeal form to be used under Sections 33.003 and 33.004, Family Code, as added by this Act, not later than December 15, 1999.

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.

Floor Amendment No. 3

Amend the Gray amendment to **CSSB 30** in Section 33.011(a), as added by item (7) of the amendment (page 2, lines 1-2), by striking "any person listed in

Section 32.001(a)(1) or (2), or a person listed in Section 32.001(a)(3) who is at least 25 years" and substituting any person listed in Section 32.001(a)(1) or a person listed in Section 32.001(a)(2) or (3) who is at least 25 years".

Floor Amendment No. 4

Amend the Gray amendment to **CSSB 30** in Section 33.011, as added by item (7) of the amendment (page 2, line 33 through page 3, line 1), by striking Subsection (d) and substituting the following:

(d) An affidavit executed under this section is confidential and privileged and is not subject to disclosure under Chapter 552, Government Code.

Floor Amendment No. 6

Amend **CSSB 30** as follows:

(1) In SECTION 1, in added Section 33.002(d), Family Code, in the second sentence (house committee printing, page 3, line 20), strike "conclusive".

(2) In SECTION 1, in added Section 33.002(g), Family Code, in the second sentence (house committee printing, page 4, lines 9-10), strike "a Class A misdemeanor" and substitute "punishable by a fine not to exceed \$10,000".

(3) In SECTION 1, in added Section 33.005(b), Family Code (house committee printing, page 11, line 6), strike "conclusively".

Floor Amendment No. 10

Amend **CSSB 30** as follows:

(1) In SECTION 1, in added Section 33.001(1), Family Code (recommitted house committee printing, page 1, lines 9-11), strike the first sentence and substitute the following: "\"Abortion\" means the use of any means to terminate the pregnancy of a female known by the attending physician to be pregnant, with the intention that the termination of the pregnancy by those means will with reasonable likelihood cause the death of the fetus.".

(2) In SECTION 1, in added Section 33.001, Family Code (recommitted house committee printing, page 1, between lines 14 and 15), insert the following new Subdivision (2) and renumber subsequent subdivisions appropriately:

(2) "Fetus" means an individual human organism from fertilization until birth.

Floor Amendment No. 11

Amend **CSSB 30** in SECTION 1, in added Section 33.002(i), Family Code, in the third sentence (recommitted house committee printing, page 5, lines 3-4), by striking "On motion" and substituting "Notwithstanding any other reason for a continuance provided under the Code of Criminal Procedure or other law, on motion".

Floor Amendment No. 4 on Third Reading

Amend **CSSB 30** on third reading in SECTION 1, following added Section 33.010, Family Code, by adding new Section 33.011 to read as follows:

Sec. 33.011. INFORMATION RELATING TO JUDICIAL BYPASS. The Texas Department of Health shall produce and distribute informational materials that explain the rights of a minor under this chapter. The materials must explain the procedures established by Sections 33.003 and 33.004 and must be made

available in English and in Spanish. The material provided by the department shall also provide information relating to alternatives to abortion and health risks associated with abortion.

The amendments were read.

Senator Shapiro moved to concur in the House amendments to **SB 30**.

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

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Fraser, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Nelson, Nixon, Ogden, Ratliff, Shapiro, Sibley, Truan, West, Zaffirini.

Nays: Barrientos, Bernsen, Ellis, Gallegos, Moncrief, Shapleigh, Wentworth, Whitmire.

Absent-excused: Luna.

HOUSE CONCURRENT RESOLUTION 298

The President laid before the Senate the following resolution:

HCR 298, Instructing the enrolling clerk of the house to make technical corrections in **HB 1491**.

ELLIS

The resolution was read.

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

SENATE BILL 1851 WITH HOUSE AMENDMENTS

Senator Wentworth called **SB 1851** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 1851** as follows:

(1) In SECTION 28 of the bill, proposed Section 552.3215(e), Government Code (Committee printing, on page 33, line 8) between "located" and the period, insert "unless the governmental body is the district or county attorney".

(2) In SECTION 28 of the bill, proposed Section 552.3215(e), Government Code (Committee printing, on page 33, line 13), between "attorney." and "To be valid," insert "If the governmental body is the district or county attorney, the complaint must be filed with the attorney general."

(3) In SECTION 28 of the bill, proposed Section 552.3215(h), Government Code (Committee printing, on page 34, line 8) immediately after "(h)", insert "Notwithstanding Subsection (g)(1), if the district or county attorney believes that that official has a conflict of interest that would preclude that official from bringing an action under this section against the governmental body complained of, before the 31st day after the date the complaint was filed, the county or district attorney shall inform the complainant of that official's belief and of the complaint's right to file the complaint with the attorney general."

Floor Amendment No. 2

Amend **SB 1851** as follows:

(1) In SECTION 27 of the bill, in proposed Section 552.321(b), Government Code (House Committee Printing, page 31, line 25 through page 32, line 1), by striking "A suit filed by the attorney general under this section must be filed in a district court of Travis County." and substituting "A suit filed by the attorney general under this section must be filed in a district court of Travis County, except that a suit against a municipality with a population of 100,000 or less must be filed in a district court for the county in which the main offices of the municipality are located."

(2) In SECTION 28 of the bill, in proposed Section 552.3215(c), Government Code (House Committee Printing, page 32, lines 24-26), strike "if brought by the district or county attorney and only in a district court of Travis County if brought by the attorney general".

The amendments were read.

On motion of Senator Wentworth, the Senate concurred in the House amendments to **SB 1851** by a viva voce vote.

SENATE BILL 1514 WITH HOUSE AMENDMENTS

Senator Ogden called **SB 1514** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 1514** (Senate Engrossment) by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION _____. Section 223.044, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) A contract with a private correctional facility under this section may not provide for the transfer of public funds to the private correctional facility for the use of inmate labor.

Floor Amendment No. 2

Amend **SB 1514** by adding the following appropriately numbered SECTION and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Section 223.044, Transportation Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) The commission may authorize the department to contract with the Texas Department of Criminal Justice for the provision of inmate labor or the labor of persons placed on community supervision for a brush control project, as defined by Section 203.001, Agriculture Code, on an area located on or adjacent to a state highway System improvement project.

(f) The State Soil and Water Conservation Board may also enter into a contract with the Texas Department of Criminal Justice for the provision of inmate labor or for the labor of persons placed on community supervision to perform a brush control project described by Subsection (e) or under Chapter 203, Agriculture Code.

The amendments were read.

Senator Ogden moved to concur in the House amendments to **SB 1514**.

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

Absent-excused: Luna.

SENATE BILL 913 WITH HOUSE AMENDMENT

Senator Shapleigh called **SB 913** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 913** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.613 to read as follows:

Sec. 201.613. ONE-STOP BORDER INSPECTION STATIONS. (a) The department may establish one or more inspection stations at or near a border crossing from Mexico so that all state agencies that regulate the passage of motor vehicles into the state may be located in one place in proximity to federal agencies that regulate imports, exports, and commercial motor vehicles at border crossings.

(b) The department may enter an agreement with a federal or state agency to accomplish the purpose of Subsection (a). The agreement may:

(1) provide for the construction of new facilities or the expansion of existing facilities to accommodate the state agencies;

(2) allocate maintenance responsibilities to the state agencies located in the inspection station; or

(3) involve the lease of space in an inspection station by the department to a participating state agency.

(c) The department shall seek any available federal funding for the construction and maintenance of an inspection station under this section, including funds available under the federal Transportation Equity Act for the 21st Century. Notwithstanding Section 222.001, the department may spend any federal funds obtained under this section and any required state matching funds for the construction or maintenance of an inspection station.

(d) The department may impose a charge on a state agency located in an inspection station in an amount necessary to recover all or any portion of the costs of the construction or maintenance of the inspection station. Money received by the department under this section shall be deposited to the credit of the state highway fund.

SECTION 2. This Act takes effect September 1, 1999.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

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

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **SB 913** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Shapleigh, Chair; Lucio, Ratliff, Zaffirini, and Sibley.

SENATE RULE 11.10 SUSPENDED
(Posting Rule)

On motion of Senator Wentworth and by unanimous consent, Senate Rule 11.10 was suspended in order that the Committee on Nominations might meet today.

CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 713

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas
May 21, 1999

Honorable Rick Perry
President of the Senate

Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 713** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELLIS	CUELLAR
BIVINS	F. BROWN
WENTWORTH	J. JONES
WEST	JUNELL
ZAFFIRINI	RANGEL
On the part of the Senate	On the part of the House

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

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 216**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas
May 20, 1999

Honorable Rick Perry
President of the Senate

Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 216** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

DUNCAN

WALKER

CAIN

WISE

JACKSON

DUNNAM

SIBLEY

KEEL

ARMBRISTER

HINOJOSA

On the part of the Senate

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the selection of a person as a grand juror or the service by a person as a grand juror.

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

SECTION 1. Article 19.08, Code of Criminal Procedure, is amended to read as follows:

Art. 19.08. QUALIFICATIONS. No person shall be selected or serve as a grand juror who does not possess the following qualifications:

1. He must be a citizen of the state, and of the county in which he is to serve, and be qualified under the Constitution and laws to vote in said county, provided that his failure to register to vote shall not be held to disqualify him in this instance;
2. He must be of sound mind and good moral character;
3. He must be able to read and write;
4. He must not have been convicted of theft or of any felony;
5. He must not be under indictment or other legal accusation for theft or of any felony;
6. He must not be related within the third degree of consanguinity or second degree of affinity, as determined under Chapter 573, Government Code, to any person selected to serve or serving on the same grand jury;

7. He must not have served as grand juror or jury commissioner in the year before the date on which the term of court for which he has been selected as grand juror begins;

8. He must not be a complainant in any matter to be heard by the grand jury during the term of court for which he has been selected as a grand juror.

SECTION 2. Article 19.25, Code of Criminal Procedure, is amended to read as follows:

Art. 19.25. EXCUSES FROM SERVICE. Any person summoned who does not possess the requisite qualifications shall be excused by the court from serving. The following qualified persons may be excused from grand jury service:

- (1) a person older than 70 [65] years;
- (2) a person responsible for the care of a child younger than 18 years;
- (3) a student of a public or private secondary school;
- (4) a person enrolled and in actual attendance at an institution of higher education; and
- (5) any other person that the court determines has a reasonable excuse from service.

SECTION 3. Chapter 19, Code of Criminal Procedure, is amended by adding Article 19.42 to read as follows:

Art. 19.42. PERSONAL INFORMATION ABOUT GRAND JURORS. (a) Except as provided by Subsection (b), information collected by the court, court personnel, or prosecuting attorney during the grand jury selection process about a person who serves as a grand juror, including the person's home address, home telephone number, social security number, driver's license number, and other personal information, is confidential and may not be disclosed by the court, court personnel, or prosecuting attorney.

(b) On a showing of good cause, the court shall permit disclosure of the information sought to a party to the proceeding.

SECTION 4. (a) The changes in law made by this Act apply only to grand juror selections made on or after the effective date of this Act. For purposes of this section, a selection is made before the effective date of this Act if any element of the selection process occurs before the effective date.

(b) A selection made before the effective date of this Act is covered by the law in effect when the selection process began, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 1999.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 839**

Senator West submitted the following Conference Committee Report:

Austin, Texas
May 19, 1999

Honorable Rick Perry
President of the Senate

Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 839** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WEST	BURNAM
CAIN	CARTER
LUCIO	GUTIERREZ
SHAPIRO	NAJERA
SHAPLEIGH	B. TURNER
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to security bars on residential dwellings.

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

SECTION 1. Chapter 756, Health and Safety Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. SECURITY BARS

Sec. 756.081. DEFINITIONS. In this chapter:

- (1) "Bedroom" means an area of a dwelling intended as sleeping quarters.
- (2) "Board" means the Texas Board of Health.
- (3) "Department" means the Texas Department of Health.
- (4) "Residential dwelling" includes a single-family home, a duplex, a triplex, an apartment, a motel or hotel, and a mobile home.
- (5) "Security bars" means burglar bars or other bars located on the inside or outside of a door or window of a residential dwelling.

Sec. 756.082. SECURITY BARS ON RESIDENTIAL DWELLING. A person may not install security bars on a door or window of a bedroom in a residential dwelling unless:

- (1) the security bars on at least one door or window in the bedroom have an interior release mechanism; or
- (2) at least one window or door from the bedroom to the exterior may be opened for emergency escape or rescue.

Sec. 756.083. LABELING REQUIREMENT. (a) Except as provided by Subsection (b), a person may not sell security bars or offer security bars for sale in this state unless the security bars or their packaging are labeled in accordance with rules adopted by the state fire marshal. The required label must state the requirements of Section 756.082.

(b) A person who is not regularly and actively engaged in business as a wholesale or retail dealer may sell or offer to sell security bars in this state provided that proper written notice of the requirements of Section 756.082 is provided to the buyer in a form approved by the state fire marshal.

Sec. 756.084. RECOMMENDED RELEASE MECHANISM. (a) The state fire marshal or a testing laboratory under conditions and procedures approved by the state fire marshal may recommend an interior release mechanism that has been shown to be effective.

(b) The state fire marshal shall adopt rules to implement this section.

SECTION 2. (a) This Act takes effect September 1, 1999.

(b) The state fire marshal shall adopt the rules required by Sections 756.083 and 756.084, Health and Safety Code, as added by this Act, not later than December 15, 1999.

SECTION 3. The change in law made by this Act applies only to security bars installed, sold, or offered for sale on or after January 1, 2000. Security bars installed, sold, or offered for sale before that date are governed by the law in effect on the date the security bars were installed, sold, or offered for sale, and the former law is continued in effect for that purpose.

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

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 371

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
May 24, 1999

Honorable Rick Perry
President of the Senate

Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 371** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BROWN
DUNCAN
JACKSON
NELSON
WHITMIRE

On the part of the Senate

GRAY
BOSSE
HAGGERTY
MCCALL

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the continuation and functions of the Correctional Managed Health Care Advisory Committee.

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

SECTION 1. Chapter 501, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. MANAGED HEALTH CARE

Sec. 501.131. DEFINITION. In this subchapter, "committee" means the Correctional Managed Health Care Committee.

Sec. 501.132. APPLICATION OF SUNSET ACT. The Correctional Managed Health Care Committee is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the committee is abolished and this subchapter expires September 1, 2005.

Sec. 501.133. COMMITTEE MEMBERSHIP. (a) The committee consists of nine members appointed as follows:

(1) two members employed full-time by the department, at least one of whom is a physician, appointed by the executive director;

(2) two members employed full-time by The University of Texas Medical Branch at Galveston, at least one of whom is a physician, appointed by the president of the medical branch;

(3) two members employed full-time by the Texas Tech University Health Sciences Center, at least one of whom is a physician, appointed by the president of the university; and

(4) three public members appointed by the governor who are not affiliated with the department or with any entity with which the committee has contracted to provide health care services under this chapter, at least two of whom are licensed to practice medicine in this state.

(b) An appointment to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 501.134. PUBLIC MEMBER ELIGIBILITY. A person may not be a public member of the committee if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the department or the committee;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department or the committee; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the department or the committee other than compensation or reimbursement authorized by law for committee membership, attendance, or expenses.

Sec. 501.135. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the committee and may not be a committee employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care or health care services; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care or health care services.

(c) A person may not be a member of the committee or act as the general counsel to the committee if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the committee.

Sec. 501.136. TERMS OF OFFICE. Committee members appointed by the governor serve staggered six-year terms, with the term of one of those members expiring on February 1 of each odd-numbered year. Other committee members serve at the will of the appointing official or until termination of the member's employment with the entity the member represents.

Sec. 501.137. PRESIDING OFFICER. The governor shall designate a physician member of the committee as presiding officer. The presiding officer serves in that capacity at the will of the governor.

Sec. 501.138. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the committee that a member:

(1) does not have at the time of taking office the qualifications required by Section 501.133;

(2) does not maintain during service on the committee the qualifications required by Section 501.133;

(3) is ineligible for membership under Section 501.134 or 501.135;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee.

(b) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(c) If the managed health care administrator has knowledge that a potential ground for removal exists, the administrator shall notify the presiding officer of the committee of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the managed health care administrator shall notify the next highest ranking officer of the committee, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 501.139. MEETINGS. (a) The committee shall meet at least once in each quarter of the calendar year and at any other time at the call of the presiding officer.

(b) The committee may hold a meeting by telephone conference call or other video or broadcast technology.

Sec. 501.140. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the committee may not vote, deliberate, or be counted as a member in attendance at a meeting of the committee until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the committee;
- (2) the programs operated by the committee;
- (3) the role and functions of the committee;
- (4) the rules of the committee with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the committee;
- (6) the results of the most recent formal audit of the committee;
- (7) the requirements of:
 - (A) the open meetings law, Chapter 551;
 - (B) the public information law, Chapter 552;
 - (C) the administrative procedure law, Chapter 2001; and
 - (D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the committee or the Texas Ethics Commission.

(c) A person appointed to the committee is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 501.141. COMPENSATION; REIMBURSEMENT. A committee member serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in the performance of the duties of the committee.

Sec. 501.142. ADMINISTRATION; PERSONNEL. The committee may hire a managed health care administrator, who may employ personnel necessary for the administration of the committee's duties. The committee shall pay necessary costs for its operation, including costs of hiring the managed health care administrator and other personnel, from funds appropriated by the legislature to the department for correctional health care.

Sec. 501.143. DIVISION OF RESPONSIBILITIES. The committee shall develop and implement policies that clearly separate the policy-making responsibilities of the committee and the management responsibilities of the managed health care administrator and staff of the committee.

Sec. 501.144. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The managed health care administrator or the administrator's designee shall provide to members of the committee and to committee employees, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 501.145. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The managed health care administrator or the administrator's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the committee to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the committee's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Sec. 501.146. MANAGED HEALTH CARE PLAN. (a) The committee shall develop a managed health care plan for all persons confined by the department that includes:

(1) the establishment of a managed health care provider network of physicians and hospitals that will serve the department as the exclusive health care provider for persons confined in institutions operated by the department;

(2) cost containment studies;

(3) care case management and utilization management studies performed for the department; and

(4) concerning the establishment of criteria for hospitals, home health, or hospice providers, a provision requiring the managed health care plan to accept certification by the Medicare program under Title XVIII, Social Security Act (42 U.S.C. Section 1395 et seq.), and its subsequent amendments as an alternative to accreditation by the Joint Commission on Accreditation of Healthcare Organizations.

(b) To implement the managed health care plan, The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center, for employees who are entitled to retain salary and benefits applicable to employees of the Texas Department of Criminal Justice under Section 9.01, Chapter 238, Acts of the 73rd Legislature, Regular Session, 1993, may administer, offer, and report through their payroll systems participation by those employees in the Texas employees uniform group insurance benefits program and the Employees Retirement System of Texas.

Sec. 501.147. COMMITTEE AUTHORITY TO CONTRACT. (a) The committee may enter into a contract on behalf of the department to fully implement the managed health care plan under this subchapter.

(b) The committee may, in addition to providing services to the department, contract with other governmental entities for similar health care services and integrate those services into the managed health care provider network.

(c) In contracting for implementation of the managed health care plan, the committee, to the extent possible, shall integrate the managed health care provider network with the public medical schools of this state and the component and affiliated hospitals of those medical schools.

(d) For services that the public medical schools and their components and affiliates cannot provide, the committee shall initiate a competitive bidding process for contracts with other providers for medical care to persons confined by the department.

Sec. 501.148. GENERAL POWERS AND DUTIES OF COMMITTEE. (a) The committee shall:

(1) develop the contracts for health care services in consultation with the department and the health care providers;

(2) determine a capitation rate reflecting the true cost of correctional health care, including necessary catastrophic reserves;

(3) monitor and develop reports on general quality of care issues;

(4) act as an independent third party in the allocation of money to inmate health care providers;

(5) act as an independent third party for the purpose of dispute resolution in the event of a disagreement between the department and the health care providers; and

(6) enforce compliance with contract provisions, including requiring corrective action if care does not meet expectations as determined by quality of care monitoring activities.

(b) The committee shall evaluate and recommend to the board sites for new medical facilities that appropriately support the managed health care provider network.

(c) The committee may contract with an individual for financial consulting services and may make use of financial monitoring of the managed health care plan to assist the committee in determining an accurate capitation rate.

(d) The committee may contract with an individual for actuarial consulting services to assist the committee in determining trends in the health of the inmate population and the impact of those trends on future financial needs.

Sec. 501.149. QUALITY OF CARE MONITORING BY THE DEPARTMENT AND HEALTH CARE PROVIDERS. (a) The committee shall establish a procedure for monitoring the quality of care delivered by the health care providers. Under the procedure, the department's monitoring activities must be limited to investigating medical grievances, ensuring access to medical care, and conducting periodic operational reviews of medical care provided at its units.

(b) The department and the medical care providers shall cooperate in monitoring quality of care. The clinical and professional resources of the health care providers shall be used to the greatest extent feasible for clinical oversight of quality of care issues.

(c) The department and the medical care providers shall communicate the results of their monitoring activities to the committee.

Sec. 501.150. COMPLAINTS. (a) The committee shall maintain a file on each written complaint filed with the committee. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the committee;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the committee closed the file without taking action other than to investigate the complaint.

(b) The committee shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the committee's policies and procedures relating to complaint investigation and resolution.

(c) The committee, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 501.151. PUBLIC PARTICIPATION. The committee shall develop and implement policies that provide the public with a reasonable opportunity to appear before the committee and to speak on any issue under the jurisdiction of the committee.

SECTION 2. Section 501.059, Government Code, is repealed.

SECTION 3. The name of the Correctional Managed Health Care Advisory Committee is changed to the Correctional Managed Health Care Committee. The change in the name of the Correctional Managed Health Care Advisory Committee does not affect the validity of any action taken by the committee before, on, or after the effective date of this Act. A reference in law to the Correctional Managed Health Care Advisory Committee means the Correctional Managed Health Care Committee.

SECTION 4. The governor shall make initial gubernatorial appointments to the Correctional Managed Health Care Committee to accomplish the membership required by Section 501.133, Government Code, as added by this Act, not later than January 1, 2000, and shall designate one member for a term expiring January 31, 2001, one member for a term expiring January 31, 2003, and one member for a term expiring January 31, 2005.

SECTION 5. This Act takes effect September 1, 1999.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1975

Senator Bivins submitted the following Conference Committee Report:

Austin, Texas
May 25, 1999

Honorable Rick Perry
President of the Senate

Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1975** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

BIVINS

BROWN

RATLIFF

DUNCAN

ARMBRISTER

On the part of the Senate

SWINFORD

CROWNOVER

CHRISTIAN

GREEN

VAN DE PUTTE

On the part of the House

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

MEMORIAL RESOLUTIONS

SCR 86 - by Whitmire, Bernsen, Brown, Ellis, Gallegos, Lindsay: In memory of Troy Alan Blando of Houston.

SR 1090 - by Ogden: In memory of James Eugene Schwertner, Sr.

SR 1092 - by Ogden: In memory of the life of J. Paul Pomeroy, Sr., of Houston.

SR 1107 - by Brown: In memory of Christian Ertle of Brazoria County.

CONGRATULATORY RESOLUTIONS

SR 1091 - by Ogden: Commending the Texas Master Gardener program.

SR 1093 - by West: Congratulating J. D. Hall of Dallas.

SR 1094 - by West: Congratulating the Northwood University men's golf team.

SR 1096 - by Gallegos: Congratulating Helene Leslie McCorvey of Galena Park.

SR 1097 - by Gallegos: Congratulating the Aldine Youth Organization United To Help (Y.O.U.T.H.).

SR 1098 - by Gallegos: Congratulating Mayor David Alan Gongre of Jacinto City.

SR 1099 - by Gallegos: Congratulating Isabel Rodriguez of Houston.

SR 1100 - by Gallegos: Congratulating Jack Scott, Jr., of Galena Park.

SR 1101 - by Gallegos: Congratulating Mayor R. P. "Bobby" Barrett of Galena Park.

SR 1102 - by Gallegos: Congratulating Sylvia Bolling of Aldine.

SR 1104 - by Madla: Congratulating Juan Manuel "J. M." Farias of Eagle Pass.

HCR 285 - (Jackson): Honoring Betty Hardin on the occasion of her retirement.

HCR 287 - (Brown): Congratulating State Representative Kyle Janek and his wife, Shannon Janek, on the birth of their son, Ryan Edward Janek.

MISCELLANEOUS RESOLUTION

SR 1095 - by West: Declaring Saturday, June 5, 1999, Williams-Livingston Day in Texas.

ADJOURNMENT

On motion of Senator Truan, the Senate at 5:37 p.m. adjourned, in memory of Jose "Chito" Vela, Jr., of Laredo, until 10:00 a.m. tomorrow.