

SIXTY-FOURTH DAY

WEDNESDAY, MAY 2, 2001

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, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini, Mr. President.

Absent-excused: Harris.

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

The Reverend Dr. William G. Thompson, Concordia Lutheran Church, San Antonio, offered the invocation as follows:

God of grace, mercy, and power, hear our prayer. Assembled here are men and women who have willingly accepted leadership responsibilities in our great State of Texas. Touch them in Your grace that they have insight to the needs of those they lead. Show them Your mercy that they may be merciful to the hurting. Empower them by Your spirit that they may act boldly in accord with Your will. Bless our leaders, our state, and all who dwell here that we live to Your glory. Amen.

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

LEAVE OF ABSENCE

On motion of Senator Bivins, Senator Harris was granted leave of absence for today on account of illness.

CO-AUTHOR OF SENATE BILL 569

On motion of Senator Cain and by unanimous consent, Senator Brown will be shown as Co-author of **SB 569**.

CO-AUTHOR OF SENATE BILL 1067

On motion of Senator Harris and by unanimous consent, Senator Truan will be shown as Co-author of **SB 1067**.

CO-AUTHOR OF SENATE BILL 1461

On motion of Senator Nelson and by unanimous consent, Senator Jackson will be shown as Co-author of **SB 1461**.

CO-AUTHORS OF SENATE BILL 1571

On motion of Senator Nelson and by unanimous consent, Senators Bernsen, Staples, and Zaffirini will be shown as Co-authors of **SB 1571**.

CO-AUTHORS OF SENATE CONCURRENT RESOLUTION 50

On motion of Senator Zaffirini and by unanimous consent, Senators Armbrister, Barrientos, Bernsen, Bivins, Brown, Ellis, Fraser, Gallegos, Lucio, Madla, Moncrief, Nelson, Shapiro, Shapleigh, Sibley, Truan, Van de Putte, West, and Whitmire will be shown as Co-authors of **SCR 50**.

PERMISSION TO INTRODUCE BILLS

Senator Truan moved to suspend Senate Rule 7.07(b) and Section 5, Article III of the Texas Constitution to permit the introduction of the following bills: **SB 1831**, **SB 1832**, **SB 1833**.

The motion prevailed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Harris.

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time, and referred to the committees indicated:

SB 1831 by Gallegos

Relating to the designation of a portion of State Highway 225 between Houston and La Porte as the Juan N. Seguin Memorial Highway.

To Committee on State Affairs.

SB 1832 by Lindsay

Relating to establishing a voluntary greenbelt water use reduction program by the North Harris County Regional Water Authority.

To Committee on Natural Resources.

SB 1833 by Bernsen

Relating to the allocation of certain funds for institutions within the Texas State University System.

To Committee on Education.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

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

HB 178 to Committee on Jurisprudence.

HB 399 to Committee on Administration.

HB 740 to Committee on Business and Commerce.

HB 819 to Committee on Natural Resources.

HB 915 to Committee on Health and Human Services.

HB 1071 to Committee on Criminal Justice.

HB 1072 to Committee on Health and Human Services.

HB 1209 to Committee on Criminal Justice.
HB 1591 to Committee on Health and Human Services.
HB 1640 to Committee on Education.
HB 1676 to Committee on Business and Commerce.
HB 1691 to Committee on Health and Human Services.
HB 1941 to Committee on Education.
HB 2103 to Committee on Health and Human Services.
HB 2378 to Committee on Finance.
HB 3067 to Committee on State Affairs.
HB 3136 to Committee on Jurisprudence.
HJR 2 to Committee on Intergovernmental Relations.
HJR 85 to Committee on Education.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 2, 2001

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:

HB 820, Relating to the number of qualified businesses designated as enterprise projects in certain municipalities.

HB 893, Relating to an additional fee to support trauma centers to be collected when a motor vehicle is registered.

HB 1006, Relating to exemptions and exceptions from work or employment activity requirements under the temporary assistance for needy families program.

HB 1187, Relating to the Parents as Scholars pilot program for certain recipients of temporary assistance for needy families.

HB 1599, Relating to certain procedures for counting and recounting voting system ballots.

HB 1697, Relating to the erection and maintenance of outdoor advertising by certain nonprofit organizations or schools.

HB 1869, Relating to the acquisition of manufactured homes through financing or other means and to persons associated with those acquisitions.

HB 1902, Relating to the purposes for which the system benefit fund may be used.

HB 2029, Relating to the application of the Texas Unemployment Compensation Act to employment by an Indian tribe.

HB 2071, Relating to establishing a billing procedure to ensure that each state agency is billed for the cost of support services allocated to the agency under the statewide cost allocation plan.

- HB 2087**, Relating to civil liability for the manufacture of methamphetamine.
- HB 2111**, Relating to the Office of Court Administration of the Texas Judicial System, the Judicial Committee on Information Technology, and the Texas Judicial Council.
- HB 2114**, Relating to interment of a victim and an individual convicted of the murder of the victim in the same cemetery; providing a civil penalty.
- HB 2153**, Relating to the directors and authority of the Texas Public Finance Authority.
- HB 2184**, Relating to the disposition of certain weapons seized as evidence in a criminal case.
- HB 2243**, Relating to the Vehicle Storage Facility Act.
- HB 2250**, Relating to certain criminal consequences of a previous intoxication manslaughter conviction.
- HB 2301**, Relating to certain insurance coverage for school districts.
- HB 2331**, Relating to punishments for certain violations of alcoholic beverage law relating to minors.
- HB 2336**, Relating to the distribution of federal funds made available to assist the state in the administration of elections.
- HB 2409**, Relating to restrictions on artificial recharge of the Edwards Aquifer.
- HB 2475**, Relating to eligibility for a special license issued by the State Board of Veterinary Medical Examiners.
- HB 2477**, Relating to the Garza County Health Care District.
- HB 2543**, Relating to the establishment of a pilot program to provide child-care intervention services for certain children with severe behavioral problems.
- HB 2677**, Relating to the right of certain municipalities to maintain local control over wages, hours, and other terms of employment of certain municipal employees.
- HB 2769**, Relating to the scope of child care services funded by a local workforce development board.
- HB 2810**, Relating to the application of statutes that classify political subdivisions according to population.
- HB 2811**, Relating to a nonsubstantive revision of statutes relating to the Texas Department of Insurance, the business of insurance, and certain related businesses, including conforming amendments, repeals, and penalties.
- HB 2852**, Relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.
- HB 3185**, Relating to certain personnel policies of the Texas Department of Criminal Justice.
- HB 3312**, Relating to establishing a pilot program for state emergency medical dispatch resource centers.

HB 3313, Relating to elementary class size limits in public schools.

HB 3333, Relating to permissible investments by deferred compensation plans for employees of political subdivisions.

HB 3351, Relating to the regulation of immediate precursors and certain other chemicals used in the illicit manufacture of a controlled substance; providing penalties.

HB 3458, Relating to the operation of the Texas Workers' Compensation Insurance Fund as a domestic mutual insurance company and to the continuation of that entity as the Texas Mutual Insurance Company.

HB 3558, Relating to the sale, lease, and purchase of interests in real property for the permanent school fund.

HB 3572, Relating to establishing an unrelated donor umbilical cord blood bank.

HB 3590, Relating to establishing the Texas Fund for Geography Education to support geography education at public, private, or independent institutions of higher education.

HB 3603, Relating to the paid leave and the return to duty for certain municipal peace officers and firefighters in certain circumstances.

HB 3671, Relating to the creation of municipal courts of record in Trophy Club located in Tarrant and Denton counties.

HJR 97, Proposing a constitutional amendment authorizing the issuance of general obligation bonds for construction and repair projects.

SB 555, Relating to a college savings plan for qualified higher education expenses. (Committee Substitute/Amended)

SB 795, Relating to the forfeiture of profits received from the sale of crime memorabilia.

SB 1185, Relating to the construction of certain telecommunications facilities. (Amended)

SB 1596, Relating to the establishment and operation of the Toward EXcellence, Access, & Success (TEXAS) grant II program. (Committee Substitute)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

BILLS SIGNED

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

SB 84, SB 361, SB 399, SB 743, SB 817.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
May 2, 2001

TO THE SENATE OF THE SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE TEXAS RACING COMMISSION for a term to expire February 1, 2007:

Michael Giles Rutherford
5630 Briar Drive
Houston, Texas 77056

(replacing Larry Christopher of Crockett whose term expired)

TO BE MEMBERS OF THE TEXAS REAL ESTATE COMMISSION for terms to expire January 31, 2007:

Paul H. Jordan
123 Mesa Spur
Georgetown, Texas 78628

(replacing Deanna Mayfield of San Angelo whose term expired)

Louise E. Hull
207 Westchester Drive
Victoria, Texas 77904

(replacing Jay Brummett of Austin whose term expired)

John Walton
5010 91st Street
Lubbock, Texas 79424

(replacing Christine T. Folmer of El Paso whose term expired)

Respectfully submitted,
/s/Rick Perry
Governor

MESSAGE FROM THE STATE BAR OF TEXAS

The following Message from the State Bar of Texas was read and was referred to the Committee on Nominations:

STATE BAR OF TEXAS

Austin, Texas
April 30, 2001

TO THE SENATE OF THE SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

TO BE A MEMBER OF THE COMMISSION ON JUDICIAL CONDUCT for a term to expire November 19, 2005:

Mr. James Hall
1903 Cactus Bluff
San Antonio, Texas 78258

Mr. Hall will be replacing Wallace Jefferson of San Antonio who resigned.

Respectfully submitted,

/s/Lynne Liberato
President

SENATE RESOLUTION 874

Senator Brown offered the following resolution:

WHEREAS, The Texas Environmental Excellence Awards are being presented May 1, 2001, and this auspicious occasion provides a fitting opportunity to recognize the proud recipients of these prestigious accolades for their dedicated efforts to protect and conserve our state's natural resources; and

WHEREAS, Nominated by a blue ribbon committee and selected by the Office of the Governor and the Commissioners of the Texas Natural Resource Conservation Commission, these award-winning Texans involved in small and large businesses, government, and individual citizenship have voluntarily endeavored to preserve our state's natural resources by preventing pollution, minimizing waste, conserving water, reducing energy consumption, and protecting wildlife; and

WHEREAS, The 2001 Texas Environmental Excellence Awards recipients include Rohm and Haas Texas, Inc., Bell Helicopter Textron, Inc., DuPont-Victoria, Applied Sustainability, the Lower Colorado River Authority, Texas Master Naturalists, San Antonio Water System, the City of Baytown Parks and Recreation Department, 4empowerment.com, Texas Parks and Wildlife Department, Jimmie D. Walker, and the youth organization "Don't Be Crude" of Victoria; and

WHEREAS, These winners are also sharing their knowledge, technology, and expertise to educate other Texans as to how they may protect the environment in their communities, and their leadership will prove vital in preserving our state's natural resources for future generations; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 77th Legislature, hereby recognize May 1, 2001, as Texas Environmental Excellence Awards Day at the State Capitol and commend the award recipients for their exemplary efforts on behalf of the Lone Star State; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for the winners as an expression of high regard from 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 Brown, the resolution was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Brown was recognized and introduced to the Senate individual and representative recipients of the Texas Environmental Excellence Awards:

Jimmie D. Walker, Andy Mangan, Thea Platz, Diedre Hisler, Bruce Chinn, and Clifford Walker.

The Senate welcomed its guests.

PHYSICIAN OF THE DAY

Senator Wentworth was recognized and presented Dr. John Frederick of San Antonio as the Physician of the Day.

The Senate welcomed Dr. Frederick and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President 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 Nelson.

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

The President 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 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Harris.

Members, Texas State Board of Physician Assistant Examiners: Margaret K. Bentley, Dallas County; Timothy Webb, Harris County.

Presiding Officer, Commission on State Emergency Communications: Dorothy M. Morgan, Washington County.

Members, Commission on State Emergency Communications: Jose A. Aranda, Jr., Maverick County; John L. deNoyelles, Smith County; Heberto Gutierrez, Bexar County; Karen B. Hibbitt, Grayson County.

Members, Sabine River Authority Board of Directors: Claudia Johansen Abney, C.P.A., Harrison County; Don O. Covington, Orange County; Calvin E. Ebner, Newton County.

Member, Texas Turnpike Authority division of the Texas Department of Transportation Board: Esperanza "Hope" Andrade, Bexar County.

Members, Texas Board of Mental Health and Mental Retardation: Rudy Arredondo, Ed.D., Lubbock County; Karen Mitchell Frank, Ph.D., Nueces County; Richard O'Connor, Dallas County.

Members, Texas State Board of Medical Examiners District One Review Committee: Sharon J. Barnes, Brazoria County; Richard Strax, M.D., Harris County; Frank R. Wellborne, D.O., Harris County.

Members, Texas State Board of Medical Examiners District Two Review Committee: David Baucom, Hopkins County; Allan N. Shulkin, M.D., Dallas County; Rodney M. Wiseman, D.O., Smith County.

Members, Texas State Board of Medical Examiners District Three Review Committee: David W. Miller, Ph.D., M.Div., Taylor County; Lonnie L. Vickers, M.D., McCulloch County; Irvin E. Zeitler, D.O., Tom Green County.

Members, Texas State Board of Medical Examiners District Four Review Committee: Bobby Howard, D.O., Nueces County; Peter D. Scholl, D.D.S., M.D., Travis County; Phyllis Strother, McLennan County.

Member, Texas State Affordable Housing Corporation Board of Directors: Karen S. Lugar, Bexar County.

Members, Private Sector Prison Industries Oversight Authority: George W. Carpenter, Lubbock County; Jeffrey R. LaBroski, Fort Bend County.

Members, Commission on Uniform State Laws: Marianne Marsh Auld, McLennan County; David C. Godbey, Dallas County; Harry L. Tindall, Harris County.

Members, Texas Industrialized Building Code Council: David Lee Beicker, Bexar County; William H. Bigelow, Harris County; Lon Fairless, Dallas County; Arthur Goetz, Tom Green County; Rudolph V. Gomez, Cameron County; Henry L. Huneke, Lubbock County; Paul W. Lorraine, Brazoria County; Michael G. Mount, Collin County; Gary L. Purser, Randall County; Douglas O. Robinson, Dallas County; Ruben E. "Benny" Salinas, Webb County; Michael E. Seibold, Midland County.

SENATE BILL 693 WITH HOUSE AMENDMENT

Senator Lucio called **SB 693** 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 693** as follows:

In Section 1, paragraph (3) add a new sub-paragraph as follows:

"(D) is not insurance assigned to an authorized insurance company by the Texas Automobile Insurance Plan Association under Sec. 4(a) of Article 21.81."

The amendment was read.

On motion of Senator Lucio, the Senate concurred in the House amendment to **SB 693** by a viva voce vote.

MOTION TO RECESS

Senator Truan at 10:21 a.m. moved that the Senate stand recessed, upon conclusion of the Joint Session of the Legislature, until 11:45 a.m. today.

The motion prevailed without objection.

The President announced the time had arrived for the Joint Session in honor of Roy P. Benavidez, pursuant to the provisions of **HCR 266**.

JOINT SESSION

(Posthumously conferring the Texas Legislative Medal of Honor on Master Sergeant Roy P. Benavidez)

The President and the Senators present, escorted by the Secretary of the Senate, the Secretary of the Senate Designee, and the Sergeant-at-Arms, proceeded to the Hall of the House of Representatives at 10:30 a.m.

The Honorable Rick Perry, Governor of the State of Texas, and his party was announced and escorted to the Speaker's Rostrum.

The President was announced and, on invitation of the Speaker, occupied a seat on the Speaker's Rostrum.

The Senators were announced and were admitted and escorted to seats prepared for them along the aisle.

The Honorable Bill Ratliff, President of the Senate, called the Senate to order and announced a quorum of the Senate present.

The Honorable James E. "Pete" Laney, Speaker of the House of Representatives, called the House to order, announced a quorum of the House present, and stated the purpose of the Joint Session.

Representative Miguel Wise gave the welcoming remarks on behalf of the House of Representatives.

Senator Eliot Shapleigh gave the welcoming remarks on behalf of the Senate.

The Alamo Silver Wings Airborne Association and the Special Forces Association Alamo Chapter XV posted the colors.

The National Anthem was led by Georgia Barraza of Stafford High School in Houston.

The Pledge of Allegiance to the flag was led by Jordan Nalle, representing the Boy Scouts of America.

Father Lawrence Matula offered the invocation.

Representative Robby Cook introduced the following guests seated on the podium: Speaker Laney, Governor Perry, Lieutenant Governor Ratliff, Representative Wise, Senator Shapleigh, and Lieutenant Colonel Frank Hudson. Representative Cook also introduced family members of Roy Benavidez: his son, Noel Benavidez; his daughters, Yvette Garcia and Denise Prochazka; and his widow, Hilaria Benavidez.

Governor Perry addressed the Joint Session and presented the Texas Legislative Medal of Honor to the widow of Master Sergeant Roy P. Benavidez.

Representative Richard Noriega read the citation describing why Master Sergeant Benavidez was the recipient of the Texas Legislative Medal of Honor as follows:

The Governor of the State of Texas, authorized by the 58th Texas Legislature, awarded in the name of the 77th Legislature the Texas Legislative Medal of Honor to

Master Sergeant Roy P. Benavidez
United States Army
(Special Forces Group, Airborne)

for conspicuous gallantry and intrepidity in action at the risk of his life above and beyond the call of duty:

On the morning of 2 May 1968, a 12-man Special Forces Reconnaissance Team was inserted by helicopters in a dense jungle area west of Loc Ninh, Vietnam, to gather intelligence information about confirmed large-scale enemy activity. This area was controlled and routinely patrolled by the North Vietnamese Army. After a short period of time on the ground, the team met heavy enemy resistance and requested emergency extraction. Three helicopters attempted extraction, but were unable to land due to intense enemy small arms and anti-aircraft damage. Sergeant Benavidez voluntarily boarded a returning aircraft to assist in another extraction attempt. Realizing that all the team members were either dead or wounded and unable to move to the pickup zone, he directed the aircraft to a nearby clearing where he jumped from the hovering helicopter and ran approximately 75 meters, under withering small arms fire, to the crippled. Prior to reaching the team's position he was wounded in his right leg, face, and head. Despite these painful injuries, he took charge, repositioning the team members and directing their fire to facilitate the landing of an extraction aircraft and the loading of wounded and dead team members to the awaiting aircraft. He then provided protective fire by running alongside the aircraft as it moved to pick up the remaining team members. As the enemy's fire intensified, he hurried to recover the body and classified documents on the dead team leader. When he reached the leader's body, Sergeant Benavidez was severely wounded by small arms fire in the abdomen and grenade fragments in his back. At nearly the same moment, the aircraft pilot was mortally wounded and his helicopter crashed. Although in extremely critical condition due to his multiple wounds, Sergeant Benavidez secured the classified documents and made his way back to the wreckage, where he aided the wounded out of the overturned aircraft and gathered the stunned men, reinstilling in them a will to live and fight. Facing a buildup of enemy opposition with a beleaguered team, Sergeant Benavidez mustered his strength, began call-in tactical air strikes, and directed the fire from supporting gun ships to suppress the enemy's fire and so permit another extraction attempt. He was wounded again in his thigh by small arms fire while administering first aid to a wounded team member just before another extraction helicopter was able to land. His indomitable spirit kept him going as he began to ferry his comrades to the craft. On his second trip with the wounded, he was clubbed from additional wounds to his head and arms before killing his adversary. He then continued under devastating fire to carry the wounded to the helicopter. Upon reaching the aircraft, he spotted and killed two enemy soldiers who were rushing the craft from an angle that prevented the aircraft door gunner from firing upon them. With little strength remaining, he made one last

trip to the perimeter to ensure that all classified material had been collected or destroyed and to bring in the remaining wounded. Only then, in extremely serious condition from numerous wounds and loss of blood, did he allow himself to be pulled into the extraction aircraft. Sergeant Benavidez' gallant choice to join voluntarily his comrades who were in critical straits, to expose himself constantly to withering enemy fire, and his refusal to be stopped despite numerous severe wounds, saved the lives of at least eight men. His fearless personal leadership, tenacious devotion to duty, and extremely valorous actions in the face of overwhelming odds were in keeping with the highest traditions of the military service and reflect the utmost credit on him and the United States Army.

Representative Wise presented the Presidential Unit Citation to the widow of Master Sergeant Benavidez, Hilaria Benavidez.

Lieutenant Colonel Frank Hudson, Benito Saucedo, Chris Barbee, and Adam Garcia addressed the Joint Session.

Representative Wise presented Yvette Benavidez Garcia who addressed the Joint Session as follows:

Thank you, on behalf of the Roy P. Benavidez family, for this prestigious honor. Once again, a grateful nation, a grateful Texas, honors our father and husband. The presentation of the Texas Legislative Medal of Honor today marks yet another tribute to our father's life.

Special thanks go to Representative Miguel Wise and Senator Eliot Shapleigh, the authors of **HCR 11** and **SCR 15**, and all of the legislative assistants who were involved with this process. Our father receives this medal today as a result of your selfless pursuit to acknowledge all of those men and women who loved their country enough to sacrifice their todays for our tomorrows. Thank you for your dedication and for your efforts. Our family is proud and we know our father is, too.

Also, thank you to Lieutenant Colonel Hudson and the 5th Special Forces Group for being with us today to recognize and award our father with the Presidential Unit Citation. Again, it is an honor to accept this award on behalf of our father. Governor Perry, Texas House and Senate, it is with deep gratitude that you are here to celebrate with us. Thank you for taking the time to be here.

Finally, we know that if our father were here today he would be humbled by this award. He would not accept this medal by or for himself. He would accept it on behalf of his brothers-in-arms, the men and women who fought and died on May 2, 1968, 33 years ago today. He would accept it for: Warrant Officer 1 Larry McKibben, killed in action; Specialist 4 Michael D. Craig, killed in action; Specialist 4 Nelson E. Fournier, killed in action; Staff Sergeant Lloyd "Frenchie" Mousseau, killed in action; Sergeant 1st Class Leroy Wright, killed in action; Chief Warrant Officer 2 Bill Armstrong, wounded in action; Gary Land, wounded in action; Robert Wessel, wounded in action; Specialist 5 Paul LaChance, Sr.; Specialist 4 Pete Gailis; Chief Warrant Officer 2 Jerry Ewing; Chief Warrant Officer 2 Roger E. Waggle, deceased; Chief Warrant Officer 2 Bill Darling; Specialist 5 Tagliaferri; Specialist 4 Brian O'Connor; and Sergeant Major Jerry Cottingham, deceased.

These are the men who equally deserve this award, this honor, with our father. These are the men who truly lived and died by "Duty, Honor, Country." Once again, we gratefully accept this Texas Legislative Medal of Honor on behalf of our father, Roy P. Benavidez. Thank you.

Representative Wise thanked the guests of the Joint Session.

Speaker Laney at 11:35 a.m. announced the purpose of the Joint Session had been completed.

RECESS

Pursuant to a previously adopted motion, the President at 11:35 a.m. announced that the Senate would stand recessed until 11:45 a.m. today.

AFTER RECESS

The Senate met at 11:45 a.m. and was called to order by the President.

BILLS AND RESOLUTIONS SIGNED

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

HB 82, HB 536, HB 538, HB 630, HB 666, HB 906, HB 1179, HCR 20, HCR 22, HCR 23, HCR 53, HCR 69, HCR 70, HCR 170, HCR 173, HCR 266.

SENATE CONCURRENT RESOLUTION 50

The President laid before the Senate the following resolution:

SCR 50, Encouraging school districts to develop and implement dual language bilingual programs.

ZAFFIRINI

The resolution was read.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 2, 2001

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 268, Designating May 2001 as Mental Health Month in Texas.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

CONCLUSION OF MORNING CALL

The President at 11:57 a.m. announced the conclusion of morning call.

(Senator Armbrister in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1173 ON THIRD 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 third reading and final passage:

CSSB 1173, Relating to authorizing the issuance of not more than \$9 million in revenue bonds for the benefit of the Fleet Admiral Chester W. Nimitz Memorial Naval Museum.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire.

Nays: Zaffirini.

Present-not voting: Mr. President.

Absent-excused: Harris.

SENATE BILL 1488 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 engrossment:

SB 1488, Relating to performance expectations and compensation systems for state employees.

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

SENATE BILL 1488 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 **SB 1488** be placed on its third reading and final passage.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Harris.

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

GUESTS PRESENTED

Senator Brown was recognized and introduced to the Senate fifth-grade students from Condit Elementary School in Bellaire, accompanied by their teacher.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
SENATE BILL 350 ON SECOND READING**

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

CSSB 350, Relating to wage rates paid by or on behalf of certain school districts on public works projects.

There was objection.

Senator Truan then moved to suspend the regular order of business and take up **CSSB 350** for consideration at this time.

The motion prevailed by the following vote: Yeas 23, Nays 4, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Cain, Carona, Ellis, Fraser, Gallegos, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Shapiro, Shapleigh, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Brown, Jackson, Ogden, Wentworth.

Present-not voting: Mr. President.

Absent: Duncan, Sibley.

Absent-excused: Harris.

The bill was read second time and was passed to engrossment by the following vote: Yeas 23, Nays 4, Present-not voting 1. (Same as previous roll call)

SENATE BILL 101 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 engrossment:

SB 101, Relating to an evaluation of required copayments from recipients of medical assistance through managed care.

The bill was read second time.

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 101** as follows:

(1) In SECTION 1 of the bill, in the introductory language (Committee printing, page 1, line 12), strike "Subchapter A, Chapter 533" and substitute "Subchapter B, Chapter 531".

(2) In SECTION 1 of the bill, in the introductory language (Committee printing, page 1, line 13), strike "533.016" and substitute "531.055".

(3) In SECTION 1 of the bill, in proposed Section 533.016, Government Code (Committee printing, page 1, line 14), strike "533.016" and substitute "531.055".

(4) In SECTION 1 of the bill, in proposed Section 533.016(a)(1), Government Code (Committee printing, page 1, line 16), strike "recipients enrolled in a managed care plan" and substitute "Medicaid recipients, including recipients enrolled in a managed care plan,".

(5) In SECTION 2 of the bill (Committee printing, page 1, line 23), strike "533.016" and substitute "531.055".

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.

SB 101 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 101 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 **SB 101** be placed on its third reading and final passage.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Harris.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Harris.

COMMITTEE SUBSTITUTE SENATE BILL 1246 ON SECOND READING

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

CSSB 1246, Relating to the establishment of a community health center revolving loan fund program.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1246 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1246** be placed on its third reading and final passage.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Harris.

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

SENATE BILL 1145 ON SECOND READING

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

SB 1145, Relating to a local option election on alcoholic beverage zones in municipal commercial areas.

The bill was read second time.

Senator Staples offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1145** in SECTION 1 of the bill as follows:

(1) In Subsection (a)(2), Section 251.742, Alcoholic Beverage Code, as added by the bill, strike "20 commercial establishments" and substitute "five commercial establishments" (Introduced version page 1, line 13).

(2) Strike Subsection (b), Section 251.742, Alcoholic Beverage Code, as added by the bill, (Introduced version page 1, lines 14-17) and substitute the following:

(b) This section applies only to a municipality that:

(1) has a population of 2,500 or more; and

(2) is located in a county:

(A) that has a population of more than 75,000; and

(B) in all or part of which the sale of all alcoholic beverages has been legalized.

The committee amendment was read.

On motion of Senator Staples, Committee Amendment No. 1 was tabled by a viva voce vote.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1145** in SECTION 1 of the bill as follows:

(1) Strike Subsection (c), Section 251.742, Alcoholic Beverage Code, as added by the bill (senate committee printing, page 1, lines 40-53), and substitute the following:

(c) The qualified voters of a municipality may petition the commissioners court of the county in which the municipality is located, in the manner prescribed by this chapter, to order a local option election to consider the legal sale of one or more prohibited types or classifications of alcoholic beverages in a designated zone within a commercial area of the municipality. The petition must describe the boundaries of the proposed zone.

(2) Insert the following after the period at the end of Subsection (e), Section 251.742, Alcoholic Beverage Code, as added by the bill (senate committee printing, page 1, line 61):

The ballot for the election must:

(1) describe the boundaries of the proposed zone; and

(2) permit voting for or against one of the ballot issues prescribed by Section 251.14 with respect to the proposed zone.

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

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

SB 1145 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Cain and West asked to be recorded as voting "Nay" on the passage of **SB 1145** to engrossment.

SENATE BILL 1145 ON THIRD READING

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1145** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 4, Present-not voting 1.

Yeas: Armbrister, Bernsen, Bivins, Brown, Carona, Duncan, Ellis, Fraser, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Van de Putte, Whitmire, Zaffirini.

Nays: Barrientos, Cain, Gallegos, Wentworth, West.

Present-not voting: Mr. President.

Absent: Truan.

Absent-excused: Harris.

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

RECORD OF VOTES

Senators Barrientos, Cain, Gallegos, and West asked to be recorded as voting "Nay" on the final passage of **SB 1145**.

**COMMITTEE SUBSTITUTE
SENATE BILL 929 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 engrossment:

CSSB 929, Relating to a restriction on the financing of multifamily residential developments by housing authorities and housing finance corporations.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 929 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 **CSSB 929** be placed on its third reading and final passage.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Harris.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 579 ON SECOND READING**

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

CSSB 579, Relating to procedures and standards for providing health care services in public schools.

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

COMMITTEE SUBSTITUTE
SENATE BILL 579 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 579** be placed on its third reading and final passage.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Harris.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Harris.

COMMITTEE SUBSTITUTE
SENATE BILL 1571 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 engrossment:

CSSB 1571, Relating to standard physician contract forms for use in managed care plans.

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

COMMITTEE SUBSTITUTE
SENATE BILL 1571 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 **CSSB 1571** be placed on its third reading and final passage.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief,

Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Harris.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Harris.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 569 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 engrossment:

CSSB 569, Relating to the use of certain revenue by certain municipalities that have territory within the boundaries of certain airports.

The bill was read second time.

Senator Cain offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 569** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 22.074(a), Transportation Code, is amended to read as follows:

(a) Public agencies acting jointly under this subchapter shall create a joint board consisting of members appointed by the governing authority of each participating public agency. Subject to Section 22.0745, the [The] joint agreement shall provide for the number to be appointed and the members' terms and compensation, if any. The joint board shall organize, select officers for terms to be provided by the agreement, and adopt rules for its own procedures.

SECTION 2. Subchapter D, Chapter 22, Transportation Code, is amended by adding Section 22.0745 to read as follows:

Sec. 22.0745. NONCONSTITUENT MUNICIPALITY REPRESENTATION ON JOINT BOARD. (a) In this section, "nonconstituent municipality" means a municipality that has territory within the boundaries of an airport that is governed by a joint board for which the constituent agencies are populous home-rule municipalities.

(b) A joint board for which the constituent agencies are populous home-rule municipalities must include in its membership a nonvoting member jointly appointed by the airport's nonconstituent municipalities.

(c) A member appointed under Subsection (b) serves a one-year term. The nonconstituent municipalities by agreement shall establish an order under which

members are appointed under that subsection that ensures that each nonconstituent municipality has a representative on the joint board on a rotating basis.

(d) The member appointed under Subsection (b) is not entitled to:

(1) attend or participate in a meeting of the joint board that is a closed meeting under Chapter 551, Government Code; or

(2) inspect or copy information that is collected, assembled, or maintained by the joint board, if the information is confidential or excepted from public disclosure under Chapter 552, Government Code.

SECTION 3. Subchapter D, Chapter 22, Transportation Code, is amended by adding Sections 22.089 and 22.090 to read as follows:

Sec. 22.089. AIRPORT REVENUE OF NONCONSTITUENT MUNICIPALITIES. (a) In this section:

(1) "Airport revenue" means revenue that is not already pledged or dedicated for another purpose and is received by a nonconstituent municipality from:

(A) maintenance and operations ad valorem taxes imposed on real and personal property located within a revenue sharing area by the municipality;

(B) the sales and use tax imposed by the municipality under Chapter 321, Tax Code, derived only from the sale or use of taxable items in the revenue sharing area;

(C) franchise fees, right-of-way fees, and other compensation paid to the municipality by a utility for the use of the public right-of-way or other public property located within the revenue sharing area;

(D) money collected by the municipal court, including fines, fees, and court costs derived only from convictions for offenses that occur in the revenue sharing area;

(E) the mixed beverage taxes received by the municipality under Section 183.051, Tax Code, derived only from the sale, preparation, or service of a taxable item in the revenue sharing area;

(F) all other taxes attributable to the revenue sharing area and deposited to the credit of the municipality's general fund; and

(G) as agreed by the joint board and the nonconstituent municipality, from commercial development in an area of the municipality within the boundaries of the airport that is not a revenue sharing area.

(2) "Excess airport revenue" means that amount of airport revenue received by a nonconstituent municipality in the municipality's fiscal year that exceeds the amount of airport revenue of the municipality in the later of:

(A) the municipality's fiscal year 2000; or

(B) the first fiscal year of the municipality in which the airport is fully operational.

(3) "Nonconstituent municipality" means a municipality:

(A) that has territory within the boundaries of an airport that is governed by a joint board for which the constituent agencies are populous home-rule municipalities; and

(B) that has not entered into an agreement under Section 22.0781 with the joint board.

(4) "Revenue sharing area" means the area of a nonconstituent municipality located within the boundaries of the airport that is not separated from the airport passenger terminal buildings by a controlled access highway, as defined by Section 203.001, that runs through the municipality.

(b) Not later than December 31 of each year, each nonconstituent municipality shall pay to the constituent agencies an amount equal to two-thirds of the

nonconstituent municipality's excess airport revenues for the preceding fiscal year. The constituent agencies shall divide the payment according to their respective ownership interests in the airport to which the revenue was attributable.

(c) Each year, as part of its annual audit, each nonconstituent municipality shall retain an independent auditor to verify the nonconstituent municipality's excess airport revenue. The constituent agencies shall reimburse each nonconstituent municipality for two-thirds of the cost of the verification. The portion of the reimbursement to be paid by each constituent agency shall be based on the respective ownership interests in the airport to which the increased revenues were attributable. Once each calendar year, each constituent agency may audit a nonconstituent municipality's records relating to the excess airport revenue at the sole expense of the constituent agency.

(d) Each nonconstituent municipality shall determine the amount of the municipality's airport revenue according to available statistical data indicating the estimated or actual total revenue attributable to that portion of the municipality that lies within the boundaries of the airport.

Sec. 22.090. RETAIL DEVELOPMENT WITHIN AIRPORT BOUNDARIES IN NONCONSTITUENT MUNICIPALITY. (a) A person may not develop a retail establishment in an area of a nonconstituent municipality, as defined by Section 22.089, that is separated from the airport passenger terminal buildings by a controlled access highway, as defined by Section 203.001, without the consent of the joint board and the nonconstituent municipality. This subsection does not affect the powers of a joint board under Section 22.074.

(b) This section expires August 31, 2021.

SECTION 4. This Act takes effect September 1, 2001.

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.

CSSB 569 as amended was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 569 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 **CSSB 569** be placed on its third reading and final passage.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Harris.

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

(Senator Sibley in Chair)

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1541 ON SECOND READING**

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

CSSB 1541, Relating to the permanent management of low-level radioactive waste.

There was objection.

Senator Duncan then moved to suspend the regular order of business and take up **CSSB 1541** for consideration at this time.

The motion prevailed by the following vote: Yeas 20, Nays 9, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Nelson, Ogden, Shapiro, Sibley, Staples, Wentworth, Whitmire.

Nays: Barrientos, Bernsen, Madla, Moncrief, Shapleigh, Truan, Van de Putte, West, Zaffirini.

Present-not voting: Mr. President.

Absent-excused: Harris.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1541** as follows:

(1) In SECTION 4, strike Subdivision (16), Section 402.003, Health and Safety Code (Committee printing page 2, lines 59-60).

(2) In SECTION 5, Subsection (b), Section 402.012, Health and Safety Code (Committee printing page 3, line 27), strike "Except as provided by Subsection (c), the" and substitute "The".

(3) In SECTION 5, strike Subsection (c), Section 402.012, Health and Safety Code (Committee printing page 3, lines 37-45).

(4) In SECTION 5, in the heading to Section 402.016, Health and Safety Code (Committee printing page 4, lines 18-19), strike "NOTICE OF INTENT TO APPLY".

(5) In SECTION 5, strike Subsection (c), Section 402.016, Health and Safety Code (Committee printing page 4, lines 28-39).

(6) In SECTION 5, strike Subdivision (1), Subsection (c), Section 402.017, Health and Safety Code (Committee printing page 4, lines 58-66), and substitute the following:

(1) a certification by the commissioners court of each county of this state in which any part of the proposed permanent management facility is located that:

(A) the county voters have approved the county for the location of the permanent management facility by a referendum held as provided by Section 402.038; or

(B) the commissioners court has approved the county for the location of the permanent management facility by a resolution adopted under Section 402.039; and

(7) In SECTION 5, Subsection (a), Section 402.029, Health and Safety Code (Committee printing page 9, lines 35-42), strike "If the permanent management license to be issued would allow the disposal of federal facility waste at a separate adjacent facility, the property required to be conveyed under this section is limited to the property used for disposal of waste described by Section 402.012(b). Title to the separate adjacent facility for disposal of federal facility waste may be transferred only as provided by federal law and by the contract executed as required by Section 402.030(c).".

(8) In SECTION 5, strike Subsection (c), Section 402.030, Health and Safety Code (Committee printing page 9, line 67, through page 10, line 6).

(9) In SECTION 5, Subsection (b), Section 402.032, Health and Safety Code (Committee printing page 10, lines 15-16), strike "and rules adopted under this chapter".

(10) In SECTION 5, Section 402.037, Health and Safety Code (Committee printing page 11, line 27), strike ", including federal facility waste.".

(11) In SECTION 5, strike Section 402.038, Health and Safety Code (Committee printing page 11, lines 30-68), and substitute the following:

Sec. 402.038. APPROVAL BY COUNTY REFERENDUM. (a) The commissioners court of a county on its own motion may order a referendum on the question of whether county residents approve the construction and operation of a permanent management facility in the county. The commissioners court shall order an election on the question if the commissioners court receives a petition in favor of the election signed by a number of registered voters of the county equal to at least 10 percent of the number of votes cast for governor in the county in the most recent gubernatorial election.

(b) The election must be held as provided by the Election Code, except that Section 41.001(a), Election Code, does not apply to the election.

(c) The ballot for the election shall be printed to permit voting for or against a proposition with the following language: "Are you in favor of _____ County being the host county for a permanent management facility for low-level radioactive waste? Yes _____/No _____."

(d) The commissioners court shall certify whether a proposed permanent management facility described by a ballot proposition is approved by a majority of the votes cast in the election not later than the 10th day after the date of the election.

(e) The county shall pay for an election held under this section.

Sec. 402.039. APPROVAL BY COMMISSIONERS COURT. The commissioners court on its own motion may adopt a resolution approving the construction and operation of a permanent management facility in the county.

(12) In SECTION 8, strike the heading to Section 402.060, Health and Safety Code (Committee printing page 15, lines 22-24), and substitute "Sec. 402.060. PERMANENT MANAGEMENT METHODS.".

(13) In SECTION 8, strike Subsection (b), Section 402.060, Health and Safety Code (Committee printing page 15, lines 32-36), and substitute the following:

(b) The commission by rule shall prohibit disposal by burial in an earthen trench as the low-level radioactive waste is received at the permanent management facility.

(14) In SECTION 8, strike Subdivision (2), Subsection (c), Section 402.060, Health and Safety Code (Committee printing page 15, lines 47-50), and substitute the following:

(2) the low-level radioactive waste is contained within a reinforced concrete barrier or within containment structures made of materials technologically equivalent or superior to reinforced concrete; and

(15) In SECTION 8, strike Section 402.0605, Health and Safety Code (Committee printing page 15, line 53, through page 16, line 18).

(16) In SECTION 9, Subsection (a), Section 402.081, Health and Safety Code (Committee printing page 17, lines 32-35), strike "This section does not apply to federal facility waste accepted at the permanent management facility under rules and permit provisions allowing for federal facility waste to be disposed of at the permanent management facility.".

(17) In SECTION 9, strike Section 402.086, Health and Safety Code (Committee printing page 18, lines 32-59), and substitute the following:

Sec. 402.086. OUT-OF-STATE WASTE AND MIXED WASTE. (a) The permanent management license holder may not accept for permanent management low-level radioactive waste generated in another state unless the low-level radioactive waste is accepted under the compact.

(b) The permanent management license holder may not accept mixed waste at the permanent management facility. In this section, "mixed waste" means waste that contains both hazardous waste, as defined by Chapter 361, and low-level radioactive waste, source material, special nuclear material, or by-product material subject to the federal Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.).

(18) Strike SECTION 10 of the bill (Committee printing page 22, line 39, through page 23, line 2) and renumber subsequent SECTIONs accordingly.

(19) In SECTION 16, strike Subsection (a), Section 402.252, Health and Safety Code (Committee printing page 24, lines 20-35), and substitute the following:

"(a) Each quarter, the commission shall [The board shall quarterly] transfer money in the low-level radioactive waste fund generated by [planning and implementation fee surcharges under Sections 402.2721(e) and (f), and] that portion of waste disposal fees identifiable as adopted for the purposes of Sections 402.273(a)(3) and (b) to the commissioners court of the host county."

(20) In SECTION 17, Subdivision (1), Section 402.271, Health and Safety Code (Committee printing page 24, lines 50-51), strike "collected by the commission under Section 402.272".

(21) In SECTION 17, Subsection (a), Section 402.272, Health and Safety Code (Committee printing page 24, line 68, through page 25, line 5), strike ". This section does not apply to a person who delivers federal facility waste to the facility if the facility is allowed under its license to dispose of federal facility waste. The permanent management license holder may establish fees for the acceptance and disposal of federal facility waste accepted under the permanent management license".

(22) In SECTION 18, Section 402.274, Health and Safety Code (Committee printing page 26, lines 5-10), strike "This section does not apply to a person who delivers federal facility waste to the facility if the facility is allowed under its license to dispose of federal facility waste. The permanent management license holder may establish processing and packaging fees for federal facility waste accepted under the permanent management license.".

(23) In SECTION 19, strike Subsection (d), Section 402.2744, Health and Safety Code (Committee printing page 26, line 43, through page 27, line 10).

The amendment was read.

On motion of Senator Bivins, Floor Amendment No. 1 was tabled by the following vote: Yeas 16, Nays 13, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Fraser, Gallegos, Haywood, Jackson, Lucio, Nelson, Ogden, Shapiro, Staples, Van de Putte, Whitmire.

Nays: Barrientos, Bernsen, Duncan, Ellis, Lindsay, Madla, Moncrief, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Present-not voting: Mr. President.

Absent-excused: Harris.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1541** in SECTION 5 of the bill by inserting new Subdivisions (3) and (4) to Section 402.014(b), Health and Safety Code (Committee Printing page 4, line 4) to read as follows:

"(3) in a county in which any part is located within 62 miles of the international boundary between this state and Mexico; or

(4) in a county that adjoins river segments 2309, 2310, or 2311 as indentified by the Texas Natural Resource Conservation Commission in the Texas Surface Water Quality Standards, 30 Texas Administrative Code Section 307.10(3) (2000)."

The amendment was read.

Senator Duncan moved to table Floor Amendment No. 2.

The motion to table was lost by the following vote: Yeas 4, Nays 25, Present-not voting 1.

Yeas: Armbrister, Duncan, Jackson, Wentworth.

Nays: Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Ellis, Fraser, Gallegos, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Present-not voting: Mr. President.

Absent-excused: Harris.

Question recurring on the adoption of Floor Amendment No. 2, the amendment was adopted by a viva voce vote.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 1541** in SECTION 5 of the bill, by adding a new Subdivision (1) to Section 402.014(b), Health and Safety Code (Committee printing page 4, line 1) to read as follows:

"(1) in a county in which the average rainfall is greater than 26 inches;" and renumbering subsequent subsections accordingly.

The amendment was read.

Senator Duncan moved to table Floor Amendment No. 3.

On motion of Senator Duncan and by unanimous consent, the motion to table was withdrawn.

Question recurring on the adoption of Floor Amendment No. 3, the amendment was adopted by the following vote: Yeas 22, Nays 7, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Carona, Ellis, Fraser, Gallegos, Haywood, Jackson, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire.

Nays: Brown, Cain, Duncan, Lindsay, Lucio, Wentworth, Zaffirini.

Present-not voting: Mr. President.

Absent-excused: Harris.

Floor Amendment No. 4 was not offered.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSSB 1541** on page 10, line 34 by inserting the following language between the words "chapter." and "The":

The commission may require the license holder to adjust the amount of security provided in accordance with the reevaluation.

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

RECORD OF VOTE

Senator Shapleigh asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 5.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSSB 1541** on page 15, between lines 52 and 53, by adding new Subsections (d) and (e) to read as follows:

(d) The commission by rule shall prohibit disposal of liquid low-level radioactive waste unless the waste is solidified or packaged in sufficient absorbent material to absorb twice the volume of the liquid.

(e) The commission by rule shall prohibit disposal of low-level radioactive waste containing free standing liquid in excess of 1% of the volume.

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

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

CSSB 1541 as amended was passed to engrossment by the following vote:
Yeas 19, Nays 10, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Haywood, Jackson, Lindsay, Lucio, Nelson, Ogden, Shapiro, Sibley, Staples, Wentworth, Whitmire.

Nays: Barrientos, Bernsen, Gallegos, Madla, Moncrief, Shapleigh, Truan, Van de Putte, West, Zaffirini.

Present-not voting: Mr. President.

Absent-excused: Harris.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 2, 2001

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:

SB 571, Relating to the "Go Texan" partner program and other programs and measures to promote Texas agriculture and agricultural products.
(Committee Substitute)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

BILLS AND RESOLUTIONS SIGNED

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

HB 360, HB 372, HB 440, HB 453, HB 537, HB 642, HB 675, HB 924, HB 957, HB 1083, HB 1130, HB 1664, HCR 14, HCR 15, HCR 16, HCR 17, HCR 18, HCR 19, HCR 21, HCR 24, HCR 25, HCR 26, HCR 27, HCR 28, HCR 51, HCR 52, HCR 54, HCR 55, HCR 56, HCR 57, HCR 58, HCR 60, HCR 61, HCR 62, HCR 63, HCR 64, HCR 65, HCR 66, HCR 67, HCR 68, HCR 71, HCR 72, HCR 73, HCR 146, HCR 147, HCR 148, HCR 149, HCR 150, HCR 153, HCR 154, HCR 155, HCR 156, HCR 157, HCR 158, HCR 159, HCR 160, HCR 162, HCR 163, HCR 165, HCR 168, HCR 169, HCR 171, HCR 172, HCR 253.

SENATE BILL 1646 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 engrossment:

SB 1646, Relating to conferring on the Coastal Water Authority the power to abandon or deconstruct a canal, ditch, or lateral; changing the qualifications of the authority's board of directors; and authorizing the authority to issue refunding bonds.

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

SENATE BILL 1646 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 **SB 1646** be placed on its third reading and final passage.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Harris.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1369 ON SECOND READING**

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

CSSB 1369, Relating to pro bono community service programs to provide certain legal services and to participation in those programs for continuing legal education credit.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1369 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1369** be placed on its third reading and final passage.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief,

Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Harris.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Harris.

**COMMITTEE SUBSTITUTE
SENATE BILL 1109 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 engrossment:

CSSB 1109, Relating to the use of the Galveston-Port Bolivar ferry operated by the Texas Department of Transportation.

The bill was read second time.

Senator Bernsen offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1109** as follows:

(1) In SECTION 1 of the bill, proposed Section 342.502, Transportation Code (Committee printing page 1, lines 27-29), strike "the greater of \$50 or the amount equal to the fee for the current registration year for registration under Subchapter D, Chapter 502" and substitute

":

(1) \$50, if the vehicle is a commercial motor vehicle, as defined by Section 502.001; or

(2) \$30, if the vehicle is any other type of motor vehicle".

(2) In SECTION 1 of the bill, proposed Section 342.502, Transportation Code (Committee printing page 1, lines 30-37), strike Subsection (b) and substitute the following:

(b) The department shall deposit fees collected under Subsection (a) to the credit of the state highway fund.

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.

CSSB 1109 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1109 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 **CSSB 1109** be placed on its third reading and final passage.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Harris.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 85 ON SECOND READING**

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

CSSB 85, Relating to the punishment for a capital offense.

There was objection.

Senator Lucio then moved to suspend the regular order of business and take up **CSSB 85** for consideration at this time.

The motion prevailed by the following vote: Yeas 20, Nays 9, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Haywood, Lucio, Madla, Moncrief, Shapleigh, Sibley, Truan, Van de Putte, West, Whitmire.

Nays: Fraser, Jackson, Lindsay, Nelson, Ogden, Shapiro, Staples, Wentworth, Zaffirini.

Present-not voting: Mr. President.

Absent-excused: Harris.

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

RECORD OF VOTES

Senators Fraser, Jackson, Lindsay, Nelson, Ogden, Shapiro, Staples, Wentworth, and Zaffirini asked to be recorded as voting "Nay" on the passage of **CSSB 85** to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 464 ON SECOND READING**

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

CSSB 464, Relating to determining the prevailing per diem wage rate to be paid in connection with constructing a public work for the state.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 464** in SECTION 2 of the bill, in Section 2258.022(b), Government Code, by striking the last sentence in Section 2258.022(b) (the sentence beginning on page 1, line 62 and ending on page 2, line 2, senate committee printing) and substituting the following:

The public body shall determine the general prevailing rate of per diem wages in the locality based on the higher of:

(1) the rate determined from the survey conducted in the political subdivision;

(2) the arithmetic mean between the rate determined from the survey conducted in the political subdivision and the rate determined from the statewide survey; and

(3) if applicable, the arithmetic mean between the rate determined from the survey conducted in the political subdivision and the rate determined by the United States Department of Labor.

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

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

CSSB 464 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Bivins, Fraser, Haywood, Jackson, Nelson, Ogden, Shapiro, Staples, and Wentworth asked to be recorded as voting "Nay" on the passage of **CSSB 464** to engrossment.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 464 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 464** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 20, Nays 9, Present-not voting 1. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Barrientos, Bernsen, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Lindsay, Lucio, Madla, Moncrief, Shapleigh, Sibley, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Bivins, Fraser, Haywood, Jackson, Nelson, Ogden, Shapiro, Staples, Wentworth.

Present-not voting: Mr. President.

Absent-excused: Harris.

SENATE BILL 247 WITH HOUSE AMENDMENTS

Senator Shapleigh called **SB 247** 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 247** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the confidentiality of information held by governmental bodies that identifies certain personal information about peace officers, county jailers, and employees of the Texas Department of Criminal Justice.

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

SECTION 1. Section 552.024, Government Code, is amended by adding Subsection (f) to read as follows:

(f) This section does not apply to a person to whom Section 552.1175 applies.

SECTION 2. Section 552.117, Government Code, is amended to read as follows:

Sec. 552.117. EXCEPTION: CERTAIN ADDRESSES, TELEPHONE NUMBERS, SOCIAL SECURITY NUMBERS, AND PERSONAL FAMILY INFORMATION. Information is excepted from the requirements of Section 552.021 if it is information that relates to the home address, home telephone number, or social security number of the following person[;] or that reveals whether the ~~following~~ person has family members:

(1) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024;

(2) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(3) an employee of the Texas Department of Criminal Justice, regardless of whether the employee complies with Section 552.1175 [~~552.024~~]; or

(4) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or other law, a reserve law enforcement officer, a commissioned deputy game warden, or a corrections officer in a municipal, county, or state penal institution in this state who was killed in the line of duty, regardless of whether the deceased complied with Section 552.024 or 552.1175.

SECTION 3. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.1175 to read as follows:

Sec. 552.1175. CONFIDENTIALITY OF ADDRESSES, TELEPHONE NUMBERS, SOCIAL SECURITY NUMBERS, AND PERSONAL FAMILY INFORMATION OF PEACE OFFICERS, COUNTY JAILERS, AND EMPLOYEES OF TEXAS DEPARTMENT OF CRIMINAL JUSTICE. (a) This section applies only to:

- (1) peace officers as defined by Article 2.12, Code of Criminal Procedure;
- (2) county jailers as defined by Section 1701.001, Occupations Code; and
- (3) employees of the Texas Department of Criminal Justice.

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

- (1) chooses to restrict public access to the information; and
- (2) notifies the governmental body of the individual's choice on a form

provided by the governmental body, accompanied by evidence of the individual's status.

(c) A choice made under Subsection (b) remains valid until rescinded in writing by the individual.

(d) This section does not apply to information in the tax appraisal records of an appraisal district to which Section 25.025, Tax Code, applies.

SECTION 4. Chapter 25, Tax Code, is amended by adding Section 25.025 to read as follows:

Sec. 25.025. CONFIDENTIALITY OF CERTAIN HOME ADDRESS INFORMATION. (a) This section applies only to:

- (1) peace officers as defined by Article 2.12, Code of Criminal Procedure;
- (2) county jailers as defined by Section 1701.001, Occupations Code; and
- (3) employees of the Texas Department of Criminal Justice.

(b) Information in appraisal records under Section 25.02 is confidential and is available only for the official use of the appraisal district, this state, the comptroller, and taxing units and political subdivisions of this state if:

- (1) the information identifies the home address of a named individual to whom this section applies; and

(2) the individual chooses to restrict public access to the information on the form prescribed for that purpose by the comptroller under Section 5.07.

(c) A choice made under Subsection (b) remains valid until rescinded in writing by the individual.

(d) This section does not prohibit the public disclosure of information in appraisal records that identifies property according to an address if the information does not identify an individual who has made an election under Subsection (b) in connection with the individual's address.

SECTION 5. This Act takes effect September 1, 2001.

Floor Amendment No. 1

Amend **CSSB 247** as follows:

- (1) On page 2, line 3, strike "or" and substitute "[or]".
- (2) On page 2, line 9, strike the period and substitute the following:

": or

(5) a commissioned security officer as defined by Section 1702.002, Occupations Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable."

(3) On page 2, line 14, between "JAILERS," and "AND EMPLOYEES,", insert "SECURITY OFFICERS,"

(4) On page 2, line 19, strike "and".

(5) On page 2, line 21, strike the period and substitute the following:

": and

(4) commissioned security officers as defined by Section 1702.002, Occupations Code."

(6) On page 3, line 18, strike "and".

(7) On page 3, line 20, strike the period and substitute the following:

": and

(4) commissioned security officers as defined by Section 1702.002, Occupations Code."

Floor Amendment No. 2

Amend **CSSB 247**, by adding a new SECTION to the bill, appropriately numbered, to read as follows, and renumbering subsequent SECTIONS accordingly:

SECTION _____. Chapter 25, Tax Code, is amended by adding Section 25.026 to read as follows:

Sec. 25.026. CONFIDENTIALITY OF VIOLENCE SHELTER CENTER AND SEXUAL ASSAULT PROGRAM ADDRESS INFORMATION. (a) In this section:

(1) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

(2) "Sexual assault program" has the meaning assigned by Section 420.003, Government Code.

(b) Information in appraisal records under Section 25.02 is confidential and is available only for the official use of the appraisal district, this state, the comptroller, and taxing units and political subdivisions of this state if the information identifies the address of a family violence shelter center or a sexual assault program.

The amendments were read.

On motion of Senator Shapleigh, the Senate concurred in the House amendments to **SB 247** by a viva voce vote.

SENATE BILL 365 WITH HOUSE AMENDMENT

Senator Armbrister called **SB 365** 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 365** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the adoption of a uniform residential building code for use in the state.

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

SECTION 1. Chapter 214, Local Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. BUILDING CODES

Sec. 214.211. DEFINITIONS. In this subchapter:

(1) "International Residential Code" means the International Residential Code for One- and Two-Family Dwellings promulgated by the International Code Council.

(2) "National Electrical Code" means the electrical code published by the National Fire Protection Association.

(3) "Residential" means having the character of a detached one- or two-family dwelling or a multiple single-family dwelling that is not more than three stories high with separate means of egress, including the accessory structures of the dwelling, and that does not have the character of a facility used for the accommodation of transient guests or a structure in which medical, rehabilitative, or assisted living services are provided in connection with the occupancy of the structure.

Sec. 214.212. INTERNATIONAL RESIDENTIAL CODE. (a) To protect the public health, safety, and welfare, the International Residential Code, as it existed on May 1, 2001, is adopted as a municipal residential building code in this state.

(b) The International Residential Code applies to all construction, alteration, remodeling, enlargement, and repair of residential structures in a municipality.

(c) A municipality may establish procedures:

(1) to adopt local amendments to the International Residential Code; and

(2) for the administration and enforcement of the International Residential Code.

(d) A municipality may review and consider amendments made by the International Code Council to the International Residential Code after May 1, 2001.

Sec. 214.213. EXCEPTIONS. (a) The International Residential Code does not apply to the installation and maintenance of electrical wiring and related components.

(b) A municipality is not required to review and consider adoption of amendments to the International Residential Code regarding electrical provisions.

Sec. 214.214. NATIONAL ELECTRICAL CODE. (a) The National Electrical Code, as it existed on May 1, 2001, is adopted as the municipal residential electrical construction code in this state and applies to all residential electrical construction applications.

(b) A municipality may establish procedures:

(1) to adopt local amendments to the National Electrical Code; and

(2) for the administration and enforcement of the National Electrical Code.

SECTION 2. Sections 6A(a) and (d), Article 21.49, Insurance Code, are amended to read as follows:

(a) Except as otherwise provided by this Subsection, all structures that are constructed or repaired or to which additions are made on or after January 1, 1988, to be considered insurable property for windstorm and hail insurance from the Association, must be inspected or approved by the Board for compliance with the building specifications in the plan of operation. After January 1, 2002, in geographic areas specified by the commissioner of insurance, the commissioner by rule may supplement the building specifications in the plan of operation with the structural provisions of the International Residential Code. Roofing materials satisfy the building specifications in the plan of operation if those materials pass the

UL Standard 997 or a comparable test certified by the Board and are installed as required by the Board to promote the wind resistance of the materials. A structure constructed, repaired, or to which additions were made before January 1, 1988, that is located in an area covered at the time by a building code recognized by the Association shall be considered an insurable property for windstorm and hail insurance from the Association without compliance with the inspection or approval requirements of this Section or the plan of operation. A structure constructed, repaired, or to which additions were made before January 1, 1988, that is located in an area not covered by a building code recognized by the Association shall be considered an insurable property for windstorm and hail insurance from the Association without compliance with the inspection or approval requirements of this Section or the plan of operation if that structure has been previously insured by a licensed insurance company authorized to do business in this State and the risk is in essentially the same condition as when previously insured, except for normal wear and tear, and without any structural change other than a change made according to code. Evidence of previous insurance includes a copy of a previous policy, copies of ~~canceled~~ [canceled] checks or agent's records that show payments for previous policies, and a copy of the title to the structure or mortgage company records that show previous policies. After January 1, 2002, a person must submit an application for windstorm inspection to the unit responsible for windstorm inspection at the Texas Department of Insurance before beginning to construct, alter, remodel, enlarge, or repair a structure. Failure to submit a timely application may result in a certificate of compliance not being issued unless plans and calculations, testing information, manufacturer's installation instructions, or any other documentation required by the commissioner of insurance is submitted to the unit responsible for windstorm inspection at the Texas Department of Insurance as may be requested in order to fulfill the requirements of this section. The Board may appoint or employ qualified inspectors as defined in this Section to perform any inspections required by this Section.

(d) A "qualified inspector" includes:

(1) a person determined by the Board to be qualified to perform building inspections because of training or experience;

(2) a licensed professional engineer meeting the requirements of the rules adopted by the commissioner of insurance for appointment to conduct windstorm inspections; and

(3) an inspector who is certified by the International Code Council, the Building Officials and Code Administrators International, Inc., the International Conference of Building Officials, or the Southern Building Code Congress International, Inc., who has certifications as a buildings inspector and coastal construction inspector, and who also complies with other requirements specified by rule by the commissioner of insurance. A qualified inspector must be approved and appointed or employed by the Board to perform building inspections. The Board may charge a reasonable fee not to exceed \$200 for the filing of applications and determining the qualifications of persons for appointment as qualified inspectors.

SECTION 3. (a) Subchapter G, Chapter 214, Local Government Code, as added by this Act, applies only to residential construction, remodeling, alteration, or repair that begins under an agreement made on or after January 1, 2002, or that begins, in the absence of an agreement, on or after that date. Residential construction, remodeling, alteration, or repair that begins under an agreement made before January 1, 2002, or

that begins, in the absence of an agreement, before that date is governed by the law in effect when the agreement was made or the activity began, as appropriate, and that law is continued in effect for that purpose.

(b) Municipalities shall, before January 1, 2002, establish rules and take other necessary actions to implement Subchapter G, Chapter 214, Local Government Code, as added by this Act.

SECTION 4. This Act takes effect January 1, 2002, except that Section 3(b) and this section take effect September 1, 2001.

The amendment was read.

On motion of Senator Armbrister, the Senate concurred in the House amendment to **SB 365** by a viva voce vote.

SENATE BILL 522 WITH HOUSE AMENDMENT

Senator Armbrister called **SB 522** 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 522** by adding the following appropriately numbered section and renumbering subsequent sections of the bill accordingly:

SECTION _____. Section 853.305(a), Government Code, is amended to read as follows:

(a) The governing body of a participating municipality by ordinance may authorize the granting of restricted prior service credit to an employee who is a member of the retirement system for service previously performed:

(1) as a full-time, paid employee of the United States, of any public authority or agency created by the United States, of any state or territory of the United States, of any political subdivision of any state of the United States, ~~or~~ of any public agency or authority created by a state or territory of the United States, or of an institution of higher education at which the person is commissioned as a campus security personnel employee under Section 51.212, Education Code, and for which service the person has not otherwise received credited service in this system, including combined service credit under Chapter 803; or

(2) as an employee of the state or any branch, agency, or subdivision of the state for which the person received credited service under the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Judicial Retirement System of Texas Plan One, the Judicial Retirement System of Texas Plan Two, the Texas County and District Retirement System, or this retirement system, and the credit for which was canceled because of withdrawal of contributions and has not been reinstated.

The amendment was read.

On motion of Senator Armbrister, the Senate concurred in the House amendment to **SB 522** by a viva voce vote.

SENATE BILL 523 WITH HOUSE AMENDMENTS

Senator Armbrister called **SB 523** 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 523** as follows:

(1) In SECTION 51 of the bill (Engrossed Version, page 62, line 1), strike "first-class mail" and substitute "certified mail, return receipt requested."

(2) Between SECTION 52 of the bill and SECTION 53 of the bill (Engrossed Version, page 67, between lines 16 and 17), add the following SECTION, appropriately numbered, to the bill and renumber the subsequent SECTIONS of the bill accordingly:

SECTION _____. Notwithstanding Section 845.407, Government Code, the Texas County and District Retirement System shall refund a penalty assessed under that section, less any administrative costs associated with the assessment, against a subdivision during the 2000 calendar year if the subdivision filed with the retirement system not later than December 31, 2000, a sworn affidavit stating that:

(1) the report and contributions required under Section 845.407, Government Code, were mailed at least 10 days before the date the report and contributions were due; and

(2) the United States Postal Service did not return the report and contributions to the subdivision.

Floor Amendment No. 1 on Third Reading

Amend **SB 523** (house committee printing) on third reading as follows:

(1) In SECTION 26 of the bill, in amended Subsection (a)(3), Section 844.102, Government Code, strike "or 844.211" (page 36, line 9) and substitute "[~~or~~] 844.211, or 844.212".

(2) Between SECTIONS 28 and 29 of the bill (page 42, between lines 1 and 2), insert the following appropriately numbered section:

SECTION _____. Subchapter C, Chapter 844, Government Code, is amended by adding Section 844.212 to read as follows:

Sec. 844.212. OPTIONAL BENEFIT ELIGIBILITY PLAN FOUR. (a) In this section, "eligible credited service" means credited service performed for one or more participating subdivisions that have adopted the plan provisions of this section.

(b) Subject to Subsection (d), the governing body of a participating subdivision may adopt the plan provisions under Subsection (c).

(c) A member is eligible to apply for and receive a service retirement annuity if the member has at least 20 years of eligible credited service in the retirement system.

(d) The governing body of a subdivision may not adopt the plan provisions of Subsection (c) except on the terms provided by Subchapter H.

(3) In SECTION 44 of the bill, in amended Subsection (d)(7), Section 844.704, Government Code, strike "or 844.211" (page 56, line 11) and substitute ", 844.211, or 844.212".

(4) In SECTION 55 of the bill, strike Subsection (b) of that section (page 68, lines 14 and 15), and substitute:

(b) Sections 843.004 and 843.005, Government Code, as added by this Act, and Section 845.407, Government Code, as amended by this Act, take effect September 1, 2001.

(5) Renumber the sections of the bill appropriately.

The amendments were read.

On motion of Senator Armbrister, the Senate concurred in the House amendments to **SB 523** by a viva voce vote.

SENATE BILL 1171 WITH HOUSE AMENDMENT

Senator Madla called **SB 1171** 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 1171** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to authorizing counties to recover certain transaction fees for fines and other charges paid by credit card.

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

SECTION 1. Section 132.003, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to the fee set under Subsection (a), the commissioners court of a county may authorize a county or precinct officer to collect on behalf of the county from a person making payment by credit card an amount equal to the amount of any transaction fee charged to the county by a vendor providing services in connection with payments made by credit card. The limitation prescribed by Subsection (a) on the amount of a fee does not apply to a fee collected under this subsection.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

The amendment was read.

Senator Madla moved to concur in the House amendment to **SB 1171**.

The motion prevailed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Harris.

SENATE BILL 862 WITH HOUSE AMENDMENT

Senator Staples called **SB 862** 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 862** as follows:

(1) In SECTION 1 of the bill, in amended Section 11.251(h), Tax Code, between "owner" and "to" (House Committee Report page 1, line 9), insert "or a person designated in writing by the importer of record".

(2) In SECTION 1 of the bill, in amended Section 11.251(h), Tax Code, between "owner" and "fails" (House Committee Report page 1, line 11) insert "or designated person".

(3) In SECTION 1 of the bill, in amended Section 11.251(h), Tax Code, between "owner" and "delivers" (House Committee Report page 1, line 17) insert "or designated person".

The amendment was read.

On motion of Senator Staples, the Senate concurred in the House amendment to **SB 862** by a viva voce vote.

**SENATE RULE 11.18 SUSPENDED
(Posting Rule)**

On motion of Senator Truan and by unanimous consent, Senate Rule 11.18 was suspended in order that the Committee on Veteran Affairs and Military Installations might consider the following bills today: **HB 2908, HB 3567**.

**SENATE RULE 11.18 SUSPENDED
(Posting Rule)**

On motion of Senator Sibley and by unanimous consent, Senate Rule 11.18 was suspended in order that the Committee on Business and Commerce might consider **HB 1862** tomorrow.

**SENATE RULE 11.13 SUSPENDED
(Consideration of Bills in Committee)**

On motion of Senator Truan and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet tomorrow during the Local and Uncontested Calendar Session.

**NOTICE GIVEN FOR
LOCAL AND UNCONTESTED CALENDAR**

Senator Cain announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 8:00 a.m. tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

MOTION TO ADJOURN

On motion of Senator Truan, the Senate at 4:00 p.m. agreed to adjourn, in memory of Loutricia Sowell Bonfanti of Leon County, upon conclusion of the Local and Uncontested Calendar Session tomorrow, until 10:00 a.m. tomorrow.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 877 by Duncan, In memory of Robert Wayne Ethridge of Coahoma.

SR 879 by Truan, In memory of Roberto M. Leal, Sr., of Corpus Christi.

Congratulatory Resolutions

SR 875 by Zaffirini, Congratulating Alcide Federico Longoria Derby of Laredo.

SR 876 by Zaffirini, Congratulating Ricardo E. Longoria Derby of Laredo.

SR 878 by Sibley, Commending the *Waco Citizen*.

SR 880 by Gallegos, Commending the Greater Channel Area.

SR 881 by Truan, Commending the Flour Bluff High School Chapter of the Spanish National Honor Society.

SR 882 by Cain, Commending the Texas Department of Transportation and the Texas Transportation Institute.

SR 884 by Jackson, Commending the academic team of George A. Thompson Intermediate School in Pasadena.

Designation Resolution

SR 883 by Jackson, Recognizing Space Day on May 3, 2001.

RECESS

On motion of Senator Truan, the Senate at 4:01 p.m. recessed until 8:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

May 2, 2001

JURISPRUDENCE — **CSSB 801**

HEALTH AND HUMAN SERVICES — **CSSB 367**

STATE AFFAIRS — **CSSB 456, SB 488, CSSB 1066, SB 1124**

EDUCATION — **CSSB 728**

INTERGOVERNMENTAL RELATIONS — SB 1248, SB 1816, SB 1823, HB 16, HB 177, HB 394, HB 521, HB 995, HB 996, HB 1449, HB 1490, HB 1588, HB 1888, HB 3318, CSHB 1833, SB 1824

NATURAL RESOURCES — HB 3415, HB 2401, HB 1504, HB 2793, HB 2354, HB 1687, HB 1686, HB 2432, SB 1609, SB 1619, SB 1620

SIGNED BY GOVERNOR

May 1, 2001

SB 417, SB 923

SENT TO GOVERNOR

May 2, 2001

SB 84, SB 361, SB 399, SB 743, SB 817

**In Memory
of
Loutricia Sowell Bonfanti**

Senator Ogden offered the following resolution:

(Senate Resolution 827)

WHEREAS, The Senate of the State of Texas joins the citizens of Oakwood in mourning the death of Leon County Sheriff's Deputy Loutricia Sowell Bonfanti, who died in the line of duty on April 7, 2001, at age 39; and

WHEREAS, A former officer with the Groesbeck and Teague police departments and the Anderson County Sheriff's Department, Loutricia Bonfanti joined the Leon County Sheriff's Department on April 1, 2000; and

WHEREAS, Respected by her colleagues as a dedicated and talented law enforcement professional, Deputy Bonfanti had a passion for police work; within months of joining the force she had solved a major case, and her performance so impressed her superiors that Loutricia had been tapped to attend hostage-negotiation training in the fall; and

WHEREAS, A wife and mother, Loutricia Bonfanti was dedicated to her family; she leaves her husband, Anthony, and her two girls, Linna and Leslie, many memories that they will treasure forever; and

WHEREAS, Texas has suffered a great loss in the death of Loutricia Sowell Bonfanti; her life's work of keeping Texas communities safe benefitted all citizens of this great state, and she will be always remembered as an exceptional officer and esteemed lady; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 77th Legislature, hereby extend condolences to the family of Loutricia Sowell Bonfanti: her husband, Anthony Bonfanti; and her daughters, Linna Ansley and Leslie Owen; and, be it further

RESOLVED, That a copy of this Resolution be prepared for her family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Leon County Sheriff's Deputy Loutricia Sowell Bonfanti.

The resolution was read.

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

On motion of Senator Ogden and by unanimous consent, the resolution was adopted by a rising vote of the Senate.

Senator Ogden was recognized and introduced to the Senate family members of Loutricia Sowell Bonfanti: her husband, Anthony Bonfanti; her mother, Bobbie Powell; her daughters, Linna Ansley and Leslie Owen; and her brother, George Sowell; accompanied by Leon County officials.

The Senate welcomed its guests and extended its sympathy.