

SIXTY-NINTH DAY

WEDNESDAY, MAY 9, 2001

PROCEEDINGS

The Senate met at 8:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini, Mr. President.

Absent-excused: Staples.

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

Senate Doorkeeper Don Long offered the invocation as follows:

Our father, which art in heaven, whose wisdom and goodness manifest themselves in all the works of creation, we invoke Your blessing upon these Senators and all who work in this chamber this day and Your grace to consecrate the labor they have met to perform. We thank You so much for the opportunities to serve our great State of Texas; keep us from abusing or wasting those opportunities. God bless each and every one in this chamber this day. 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 Shapiro, Senator Staples was granted leave of absence for today on account of a death in the family.

SENATE RULE 2.02 SUSPENDED (Restrictions on Admission)

On motion of Senator Brown and by unanimous consent, Senate Rule 2.02 was suspended to grant floor privileges to a staff member of each Senator while the Senate is resolved into a Committee of the Whole Senate.

SENATE RULE 2.01(b) (Access to Senate Floor)

Senator Truan moved that in accordance with Senate Rule 2.01(b), the Senate Chamber be secured while the Senate is resolved into a Committee of the Whole Senate.

The motion prevailed without objection.

COMMITTEE CHAIR APPOINTED

In accordance with Senate Rule 13.02, the President appointed Senator Truan as Chair of the Committee of the Whole Senate.

COMMITTEE OF THE WHOLE SENATE

On motion of Senator Truan and by unanimous consent, the Senate at 8:20 a.m. resolved into a Committee of the Whole Senate with Senator Truan presiding.

IN LEGISLATIVE SESSION

The President called the Senate to order at 10:30 a.m. as In Legislative Session.

SENATE RESOLUTION 994

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pride in recognizing Sara Cecilia Galvan on her recent selection as a 2001 Rhodes Scholar; and

WHEREAS, The Rhodes Scholarship Trust announced in December of 2000 the names of 32 Americans chosen from 950 applicants to be Rhodes Scholars; the oldest of international study awards available to American students, Rhodes Scholarships were created in 1902 by the will of Cecil Rhodes, a British philanthropist and colonial pioneer; and

WHEREAS, Rhodes Scholarships provide two or three years of study at the University of Oxford in England; candidates are first endorsed by their university and are then nominated by Committees of Selection in each of the states and interviewed by District Selection Committees in eight regions of the United States; and

WHEREAS, Applicants are chosen on the basis of criteria designated by Cecil Rhodes; his criteria included high academic achievement, integrity, a spirit of unselfishness, respect for others, potential for leadership, and physical vigor; candidates are expected to be of high moral character and to have a strong sense of public duty; and

WHEREAS, Sara Galvan is in the School of Architecture and Plan II degree program at The University of Texas at Austin and is currently working for the Texas Legislature in the office of Senator Eddie Lucio; in honor of her achievements and those of her fellow University of Texas recipients of Rhodes Scholarships, the Tower at the university was lit on April 27, 2001; and

WHEREAS, Talented and hardworking, Sara is a model for students of all ages in the State of Texas; and

WHEREAS, An exemplary young lady with an engaging personality, Sara strives for excellence in all of her endeavors and is a source of much pride to her family, her school, and her community; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 77th Legislature, hereby commend Sara Cecilia Galvan for her outstanding personal and academic accomplishments and extend congratulations to her on earning the coveted and prestigious Rhodes Scholarship; and, be it further

RESOLVED, That a copy of this Resolution be prepared for her as an expression of esteem 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 Lucio, the resolution was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate Sara Cecilia Galvan; her father, Eleuterio "Teo" Galvan; her mother, Marie Elizabeth Galvan; her sisters, Eva and Kathleen Galvan; and her friend, Kevin Watts.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 9, 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 15, Relating to license plates for persons with disabilities and disabled veterans.

HB 31, Relating to the punishment for the offense of burglary of a vehicle.

HB 43, Relating to the consideration of income earned by certain recipients of Temporary Assistance for Needy Families benefits for eligibility determination purposes.

HB 45, Relating to a mile-based rating plan for motor vehicle insurance.

HB 149, Relating to persons eligible to receive a license plate honoring peace officers killed in the line of duty.

HB 150, Relating to the composition of the districts of the Texas House of Representatives.

HB 154, Relating to the personal needs allowance for certain Medicaid recipients who are residents of long-term care facilities.

HB 287, Relating to creating the criminal offense of providing a cigarette or tobacco product to an inmate of the Texas Department of Criminal Justice.

HB 428, Relating to the fee for special license plates for Purple Heart recipients.

HB 503, Relating to allowing certain peace officers to enforce commercial motor vehicle safety standards.

HB 539, Relating to arts, entertainment, advertisement, and sports contracts entered into by minors.

HB 541, Relating to disposition of military awards and decorations escheated to the state.

HB 547, Relating to the languages in which the Department of Public Safety provides certain public notice regarding sex offenders.

HB 563, Relating to certain practices and procedures involved with a polling place used in an election.

HB 568, Relating to annual vacation leave accrual for state employees.

HB 588, Relating to the creation of a DNA record for certain persons convicted of a felony or adjudicated as having engaged in delinquent conduct constituting a felony offense.

HB 674, Relating to stopping, standing, or parking a vehicle on a sidewalk.

HB 715, Relating to the composition of the 404th Judicial District.

HB 779, Relating to the establishment of a line of vegetation along the Gulf of Mexico in certain areas of public beach.

HB 811, Relating to the issuance of Special Olympics Texas license plates.

HB 964, Relating to the release of certain confidential information of a patient by the patient's physician.

HB 1051, Relating to the award of attorney's fees and costs in an action against a fraudulent transfer.

HB 1082, Relating to a prohibition on employment discrimination in compensation; providing penalties.

HB 1143, Relating to public school teachers.

HB 1144, Relating to public school accountability.

HB 1315, Relating to the dismissal of a claim brought by an inmate.

HB 1317, Relating to financial security requirements for certain oil well operators.

HB 1359, Relating to the transfer of course credit between public institutions of higher education.

HB 1447, Relating to a franchise tax credit for certain activities in defense economic readjustment zones.

HB 1450, Relating to the investigation of a firefighter fatality by the state fire marshal.

HB 1451, Relating to oversight of and public access to the supreme court and the court of criminal appeals.

HB 1537, Relating to a study and a pilot program regarding the provision of medical assistance and certain health benefits plan coverage for children of migrant or seasonal agricultural workers.

HB 1560, Relating to the use of gender-neutral terminology in publications of the office of the attorney general.

HB 1585, Relating to the completion of a sentence in a felony after revocation of parole, mandatory supervision, or conditional pardon.

HB 1610, Relating to data on mandated health benefits and mandated offers of coverage that must be collected and reported by health benefit plan issuers.

HB 1617, Relating to the expansion of prison industries programs.

HB 1633, Relating to legislative review of the statutory guidelines for child support and the possession of and access to a child.

HB 1649, Relating to the organization and duties of the Board of Pardons and Paroles and the consequences of the revocation of parole or mandatory supervision.

HB 1689, Relating to an exemption from ad valorem taxation for certain organizations engaged primarily in performing charitable functions.

HB 1694, Relating to the exemption from ad valorem taxation of motor vehicles leased for personal use.

HB 1706, Relating to the regulation of architecture, landscape architecture, and interior design by the Texas Board of Architectural Examiners.

HB 1732, Relating to the changing of an ad valorem tax appraisal roll.

HB 1761, Relating to the right of an employee to time off from work to meet with certain persons affecting the education of the employee's child.

HB 1776, Relating to the establishment of Celebrate Freedom Week in public schools.

HB 1831, Relating to the general power of the Texas Department of Transportation to contract.

HB 1872, Relating to local employment impact statements required before a state agency may adopt a rule.

HB 1887, Relating to the rights of patients receiving mental health services.

HB 1890, Relating to control of contracts and funds of a commissary for the county jail of certain counties.

HB 1912, Relating to the authority of a municipality to impose and use utility fees for certain disabled access improvements.

HB 1913, Relating to termination of certain contracts by a preferred provider organization or health maintenance organization.

HB 2043, Relating to safety standards for buses used to transport students.

HB 2119, Relating to the authorization and regulation of progressive bingo games.

HB 2124, Relating to the consolidated registration of certain fleets of motor vehicles.

HB 2168, Relating to granting a property owner in a partition proceeding an access easement in certain circumstances.

HB 2230, Relating to the reporting and investigation of motor vehicle accidents.

HB 2240, Relating to limiting the transfer of the school district ad valorem tax freeze on the residence homesteads of the elderly to different homesteads in the same school district.

HB 2260, Relating to accommodations and work assignments for certain pregnant municipal and county employees.

HB 2306, Relating to the extension of residence homestead ad valorem tax exemptions and protection from forced sale to a homestead owned by a family-owned business.

HB 2323, Relating to repayment assistance for certain law school loans of persons providing legal services to the indigent.

HB 2340, Relating to the authority of county governments to regulate subdivision development in the unincorporated areas of a county.

HB 2341, Relating to legislative leave for certain sheriff's department employees.

HB 2365, Relating to funding to enable Prairie View A&M University to qualify for agricultural research, extension, and education matching funds, including federal agricultural research and extension formula funds.

HB 2368, Relating to the fees assessed by a district court in Dallas County for certain services rendered in juvenile or family law cases.

HB 2504, Relating to clarifying certain provisions of the law regulating political funds and campaigns.

HB 2518, Relating to the issuance of certain permits for the emission of air contaminants.

HB 2606, Relating to crew requirements for certain railroads.

HB 2638, Relating to certain fees for collecting, disbursing, or monitoring spousal maintenance or child support payments in Dallas County.

HB 2645, Relating to the imposition of costs on certain convictions to pay for expenses related to jury sequestration.

HB 2650, Relating to requiring hepatitis C training for registered nurses.

HB 2719, Relating to the use of obsolete bridges, tunnels, and causeways to create artificial reefs.

HB 2763, Relating to federal matching funds for certain child care services funded by a local workforce development board.

HB 2827, Relating to consumer disclosures required to be made by health maintenance organizations and insurers who provide preferred provider plans.

- HB 2950**, Relating to the regulation of certain abusable volatile chemicals.
- HB 2978**, Relating to the criteria for designating a residence homestead as a historic site for purposes of exemption from ad valorem taxation.
- HB 3073**, Relating to petitions to increase salaries of members of the sheriff's department.
- HB 3153**, Relating to the authority of chiropractors to form certain professional associations.
- HB 3184**, Relating to the contents of an application for an exemption from ad valorem taxation.
- HB 3203**, Relating to updating address information on a list used to reconstitute the jury wheel.
- HB 3209**, Relating to a provisional commercial gulf shrimp boat license.
- HB 3296**, Relating to the compensation of certain retired judges while assigned as visiting judges.
- HB 3347**, Relating to the administration and collection of ad valorem taxes.
- HB 3364**, Relating to deferring or abating a suit to collect ad valorem taxes owed by certain disabled individuals.
- HB 3391**, Relating to the definition of a strategic investment area for purposes of certain tax credits.
- HB 3433**, Relating to the designation of a portion of United States Highway 259 Relief Route as the Charles K. Devall Memorial Highway.
- HB 3441**, Relating to special license plates for certain government officials.
- HB 3527**, Relating to the use of certain fees by the Texas Natural Resource Conservation Commission.
- HB 3528**, Relating to the consolidation and use of certain fees under Chapter 26, Water Code.
- HB 3552**, Relating to the regulation of manufactured housing; providing a penalty.
- HB 3691**, Relating to the creation, administration, powers, duties, operation, and financing of a hospital district to be known as the West Medical District; authorizing a tax; and granting the authority to issue and refund bonds.
- HB 3693**, Relating to the creation, administration, powers, duties, operation, and financing of the Lake Granbury Water Improvement District.
- HB 3695**, Relating to the creation of an additional county court at law in Gregg County.
- HB 3696**, Relating to the creation of the County Court at Law No. 5 of Hidalgo County and the County Criminal Court at Law of Hidalgo County, to redesignating the County Court at Law No. 3 of Hidalgo County as the Probate Court of Hidalgo County, and to the jurisdiction of the statutory county courts in Hidalgo County.

- SB 34**, Relating to providing dental services to certain recipients of medical assistance.
- SB 38**, Relating to authorizing the conduct of architectural review before the construction or remodeling of certain long-term and other care facilities.
(Committee Substitute)
- SB 52**, Relating to a requirement that child-care facilities post certain signs.
- SB 71**, Relating to the compensation and reimbursement of expenses of members of the Midwestern State University board of regents.
- SB 73**, Relating to the removal of members of the board of regents of Midwestern State University.
- SB 74**, Relating to the terms of members of the advisory board of the Texas Academy of Mathematics and Science.
- SB 77**, Relating to the removal of members of the board of regents of Texas Woman's University.
- SB 125**, Relating to the preparation and submission of the state low income housing annual report and plan.
- SB 126**, Relating to the creation of the Rural Communities Health Care Investment Program to attract and retain rural health care professionals.
(Committee Substitute)
- SB 141**, Relating to requiring disclaimers on certain advertisements that offer homestead designation services.
(Committee Substitute)
- SB 145**, Relating to chiropractic facility licenses issued by the Texas Board of Chiropractic Examiners.
- SB 152**, Relating to the appeal of certain determinations by the Texas Board of Chiropractic Examiners.
- SB 164**, Relating to officers authorized by law to hold an inquest.
- SB 171**, Relating to the renewal of a license to practice chiropractic.
- SB 221**, Relating to government purchasing using the reverse auction procedure.
(Amended)
- SB 256**, Relating to the recovery by a taxing unit of certain costs on the resale of property bid off to the unit at a tax foreclosure sale.
- SB 270**, Relating to the meaning of "agricultural crop" for purposes of the exemption of certain wells from fees charged by the North Harris County Regional Water Authority.
- SB 282**, Relating to requiring the Texas Department of Health to promote the vaccines for children program to certain health care providers not currently enrolled in the program.
- SB 327**, Relating to the servicing of a portable fire extinguisher.
- SB 347**, Relating to the provision of health care, including prescription drugs, for persons confined in institutions operated by the Texas Department of Criminal Justice.

SB 370, Relating to the performance of an autopsy on an individual injured in one county and dying in another county.

SB 386, Relating to updating references to the campuses of the Texas State Technical College System.

SB 387, Relating to high school diplomas for certain veterans.
(Amended)

SB 424, Relating to a state strategic health plan.
(Committee Substitute)

SB 532, Relating to medical assistance for certain persons in need of treatment for breast or cervical cancer.
(Committee Substitute)

SB 558, Relating to an advisory committee on reducing drug demand.

SB 561, Relating to indemnification provisions concerning registered architects and licensed engineers in certain construction contracts.
(Committee Substitute)

SB 600, Relating to requirements regarding certification that a forensic anthropologist must meet in order to assist a medical examiner.

SB 605, Relating to approval by the Texas Department of Insurance for certain holding company affiliations.

SB 613, Relating to the operation of the Castro County Hospital District.

SB 632, Relating to the authority of certain counties to prohibit traffic on certain areas of public beaches.

SB 636, Relating to the analysis and review of mental illness treatment programs for certain juvenile and adult offenders.

SB 647, Relating to the creation of the Old Town Spring Improvement District; providing authority to impose a tax and issue bonds.
(Committee Substitute)

SB 656, Relating to the designation and functions of a state demographer.

SB 664, Relating to the investigation of abuse, neglect, or exploitation of persons in certain facilities.
(Committee Substitute)

SB 694, Relating to the confidentiality of credit card, debit card, charge card, and access device numbers that are collected, assembled, or maintained by a governmental body and of certain e-mail addresses.
(Committee Substitute)

SB 725, Relating to the transfer of certain state property from the Texas Department of Mental Health and Mental Retardation to Texas Panhandle Mental Health and Mental Retardation.

SB 726, Relating to the fiscal year and the date of elections of the Stratford Hospital District.

SB 837, Relating to the development of a strategic plan by the Border Health Institute.

SB 863, Relating to tax refunds to property owners following ad valorem tax appeals.

SB 870, Relating to the authority of a commissioners court of a county to authorize certain community and economic development programs.

SB 875, Relating to participation of fathers in programs and services administered by the Health and Human Services Commission and health and human services agencies and functions performed by the office of the attorney general.

SB 911, Relating to the purposes and duties of defense base development authorities.

SB 916, Relating to the disposition by municipalities of property in certain air navigation facilities.

(Committee Substitute)

SB 936, Relating to floodplain management and flood insurance; providing a criminal penalty.

SB 939, Relating to certain studies of the Texas Strategic Military Planning Commission.

SB 941, Relating to the eligibility of former or retired statutory probate judges for certain assignments as visiting judges.

(Committee Substitute)

SB 1023, Relating to compensation for services rendered at a polling place by election officers.

SB 1034, Relating to the right of certain persons to enter a public facility with an assistance animal.

SB 1046, Relating to the enforcement powers of the Texas Department of Health over food, drugs, devices, and cosmetics.

SB 1057, Relating to the administration of the TEXAS grant program and to the dissemination of student financial aid information.

(Committee Substitute)

SB 1065, Relating to changing the name of the South Texas Hospital to the South Texas Health Care System and to eliminating certain obsolete provisions relating to the hospital.

SB 1073, Relating to the Palo Pinto County Hospital District.

SB 1080, Relating to certain distressed or reconditioned food, drugs, devices, and cosmetics and certain licensed persons.

SB 1089, Relating to eligibility for Vietnam veteran license plates.

SB 1094, Relating to the administration and jurisdiction of the statutory county courts in Denton County and to the operation of the statutory probate court in Denton County.

SB 1123, Relating to the enforcement and collection of taxes, fees, and other revenue; providing criminal penalties.

(Committee Substitute)

- SB 1127**, Relating to the minimum size of a container of liquor.
- SB 1144**, Relating to the transfer of certain state property from the Texas Department of Criminal Justice to Galveston County.
- SB 1158**, Relating to the operation of the Mitchell County Hospital District.
(Committee Substitute)
- SB 1165**, Relating to the qualifications for appointment as the adjutant general.
(Committee Substitute/Amended)
- SB 1167**, Relating to the administration, powers, duties, and operations of certain emergency services districts; providing criminal penalties.
- SB 1168**, Relating to authorizing counties to order a referendum on the increase or decrease of flood control taxes or the use of funds generated by flood control taxes.
- SB 1194**, Relating to the protection of bats; providing a penalty.
(Committee Substitute)
- SB 1300**, Relating to the practice of medicine without an annual registration permit.
(Committee Substitute)
- SB 1304**, Relating to the creation of a missing persons DNA database at the University of North Texas Health Science Center at Fort Worth; providing a penalty.
(Committee Substitute/Amended)
- SB 1319**, Relating to forwarding process served on the secretary of state.
- SB 1338**, Relating to the authority of the Railroad Commission of Texas to regulate oil and gas NORM waste.
- SB 1339**, Relating to requiring owners or operators of poultry facilities to implement and maintain certified water quality management plans.
- SB 1407**, Relating to the sale of livestock by a personal representative of a decedent's estate.
(Committee Substitute)
- SB 1410**, Relating to crab traps used in the public water of this state and to removal requirements for abandoned crab traps.
- SB 1419**, Relating to the statute of limitations in certain civil proceedings involving the public institutions of higher education or the Texas Higher Education Coordinating Board.
- SB 1433**, Relating to the jurisdiction of the 85th, 272nd, and 361st District Courts in Brazos County.
- SB 1456**, Relating to the establishment of a pediatric diabetes research advisory committee in the Texas Department of Health.
- SB 1547**, Relating to the establishment of an investment advisory board by the comptroller of public accounts.
- SB 1640**, Relating to a provision for the payment or transfer of a person's interest in a mutual fund account on the person's death.

SB 1681, Relating to the waiver of a jury trial in the prosecution of a misdemeanor offense within the jurisdiction of the justice and municipal courts.

SCR 34, Expressing support for the Minerals Management Service to proceed with the Outer Continental Shelf (OCS) lease in the eastern Gulf of Mexico.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

BILLS AND RESOLUTION SIGNED

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

HB 244, HB 402, HB 506, HB 767, HB 768, HB 1478, HB 1586, HB 1737, HB 1788, HB 2218, HB 2437, HB 2840, HB 2908, HB 3335, HCR 8, SB 232, SB 288, SB 571, SB 832, SB 1185, SB 1196, SB 1380.

(Senator Truan in Chair)

SENATE RESOLUTION 97

Senator Zaffirini offered the following resolution:

WHEREAS, The achievements of Don Jose Gallego Alemani and his contributions to the City of Laredo are most impressive and are proudly recognized by the Senate of the State of Texas; and

WHEREAS, Emphatically encouraged by his family to leave his native country of Spain to avoid conscription into the militia of dictator Francisco Franco, Jose Gallego came to Laredo with his wife, Guadalupe Romo, in 1915; they made a loving home for their children, Jorge, Maria Luisa Vicharelli, Raul, Jaime, Blanca Chapa, Teresa Gutierrez, and Margarita Cremo, in the Gateway City; and

WHEREAS, Showing the entrepreneurial spirit that enabled him to rapidly become a local real estate magnate, Jose Gallego decided to build a local resort and entertainment center; the complex was called the Buenos Aires Recreational Center, and it consisted of two public swimming pools, a tennis court, two dance halls, and a skating rink; and

WHEREAS, At the skating rink, young people of Laredo met socially; it was certainly the most popular attraction of the center; and

WHEREAS, Don Jose Gallego was a proponent of education, believing in it so strongly that he donated two city blocks of land to the City of Laredo for construction of a school in 1918; the school was finally built when funds became available for it in 1924; and

WHEREAS, The first school campus was composed of a two-room building in which there were only three employees; the school was expanded in 1930 and again after a fire in 1970; and

WHEREAS, On October 11, 1995, the Buenos Aires Elementary School dedicated a granite marker honoring this remarkable benefactor for his gift of land; and

WHEREAS, The genius of Don Jose Gallego was evident in every aspect of his work and life; his gift to education and his construction of a well-known recreational center constitute a living legacy of education and culture to the City of Laredo; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 77th Legislature, hereby honor the generosity of Don Jose Gallego Alemani and express its appreciation of his gifts to his beloved Laredo; and, be it further

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

The resolution was again read.

The resolution was previously adopted on Thursday, January 25, 2001.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate family members of Don Jose Gallego Alemani: his daughters, Teresa Gutierrez, Margarita Cremo, and Blanca Chapa; and his sons, Raul, Jaime, and Jorge Gallego.

The Senate welcomed its guests.

(President in Chair)

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: Staples.

Member, Texas Department of Housing and Community Affairs Board: Norberto Salinas, Hidalgo County.

Member, Texas Board of Human Services: Jerry Kane, Nueces County.

Member, Commission on Law Enforcement Officer Standards and Education: David N. James, Denton County.

Members, Texas Board on Aging: Richard A. Braun, Midland County; Nancy Lee Lund, Bowie County; Nelda P. Wray, M.D., M.P.H., Harris County.

Members, Texas Appraiser Licensing and Certification Board: Patrick H. Cordero, Jr., Midland County; William A. Faulk, Jr., Cameron County; L. W. "Wayne" Mayo, Collin County; James Melvin Synatzske, Erath County.

Judge, 234th Judicial District Court, Harris County: Bruce D. Oakley, Harris County.

Judge, 357th Judicial District Court, Cameron and Willacy Counties:
J. Rolando Olvera, Jr., Cameron County.

Member, School Land Board: William F. Warnick, Lubbock County.

PHYSICIAN OF THE DAY

Senator Ellis was recognized and presented Dr. Stephen Spann of Houston as the Physician of the Day.

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

HOUSE BILL 3678 REREFERRED

Senator Jackson submitted a Motion In Writing requesting that **HB 3678** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on Jurisprudence.

The Motion In Writing prevailed without objection.

(Senator Brown in Chair)

SENATE RESOLUTION 887

Senator Bivins offered the following resolution:

WHEREAS, Tick-borne illnesses, such as ehrlichiosis, Lyme disease, Rocky Mountain spotted fever, and tick-borne relapsing fever, are easily contracted and can be extremely debilitating and fatal; and

WHEREAS, Anyone who ventures outdoors is susceptible to encountering a tick and may contract one of these diseases; if these illnesses are not diagnosed and treated properly soon after they occur, the ramifications become potentially life-threatening as time elapses; and

WHEREAS, Lyme disease, the most prevalent of the four illnesses, is the fastest-growing infectious disease in the country and the most common vector-borne disease in Texas, with cases having been reported in every public health region in the state; the Lone Star tick is the principal transmitter of Lyme disease in Texas, though other known carriers are the black-legged deer tick, brown dog tick, and cat flea; and

WHEREAS, The Senate Committee on Administration in its Interim Report on *The Prevalence of Tick-Borne Illnesses in Texas* to the 77th Legislature recommended tick-borne illness prevention and education and Lyme disease research and test development; and

WHEREAS, Due to a limited public understanding of the serious nature of these easily contracted diseases, and the fact that some health care providers are still unaware that these diseases actually exist in the State of Texas, there is considerable underreporting of tick-borne illnesses in Texas; recognizing May as Tick-Borne Illness Awareness Month will undoubtedly assist in the further education of all Texans on this important public health issue; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 77th Legislature, hereby recognize May as Tick-Borne Illness Awareness Month in the State of Texas and encourage all to learn more about these diseases.

BIVINS
HARRIS

The resolution was again 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.

The resolution was previously adopted on Thursday, May 3, 2001.

GUESTS PRESENTED

Senator Bivins, joined by Senator Harris, was recognized and introduced to the Senate David Johnson, Lisa Johnson, Love Nance, Konyie Guthrie, and Robert Proven.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Haywood was recognized and introduced to the Senate members of the golf team from Throckmorton High School in Throckmorton, accompanied by their coach.

The Senate welcomed its guests.

MOTION IN WRITING

Senator Harris submitted a Motion In Writing that all proposed floor amendments to **CSHB 2912**, the Texas Natural Resource Conservation Commission Sunset Bill, must be submitted to the Calendar Clerk's office by 3:00 p.m. Thursday, May 10, 2001.

The Motion In Writing prevailed without objection.

SENATE BILL 1154 WITH HOUSE AMENDMENT

Senator Shapleigh called **SB 1154** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Brown in Chair, laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1154** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to information included on the Internet website of the Texas Department of Transportation.

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

SECTION 1. Subchapter A, Chapter 223, Transportation Code, is amended by adding Section 223.0042 to read as follows:

Sec. 223.0042. CONTRACT INFORMATION ON INTERNET WEBSITE. The department shall make available on the department's Internet website a listing describing each contract awarded by the commission for a highway construction project. The listing must include for each project:

(1) the funding program source contract awardee, including subcontractors and historically underutilized business and disadvantaged business enterprise participants and percentage of contract; and

(2) each department transportation district in which the contract will be performed.

SECTION 2. This Act takes effect September 1, 2001.

The amendment was read.

On motion of Senator Shapleigh, the Senate concurred in the House amendment to **SB 1154** by a viva voce vote.

SENATE BILL 732 WITH HOUSE AMENDMENT

Senator Barrientos called **SB 732** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

SB 732 is amended by adding a new Section _____ to read as follows:

SECTION _____. Subchapter D, Chapter 111, Local Government Code, is amended by adding a new Section 111.095 to read as follows:

Section 111.095. SPECIAL FUNDS. (a) This section shall apply to all funds maintained and controlled by a county officer that are not included in the county budget.

(b) At least 60 days before the first day of the county's fiscal year, the officer shall prepare a budget for the expenditure of the funds during that fiscal year and file a copy of that budget with the county budget officer. The county budget officer shall make a copy of the budget filed with the budget officer available to the public at all reasonable times. The budget filed with the county budget officer is not subject to approval by the commissioners court of the county, but any member of the public is entitled to speak for or against the budget during the county's budget process. Funds in the accounts under this section may be spent only in compliance with:

(1) the budget filed with the county budget officer under this subsection; and

(2) Subchapter C, Chapter 262, Local Government Code.

(c) Funds in the accounts under this section may not be used to supplement the salary or cover the personal expenses of the county officer.

(d) The provisions of this section are cumulative with the provisions of other statutes pertaining to county funds.

The amendment was read.

On motion of Senator Barrientos, the Senate concurred in the House amendment to **SB 732** by a viva voce vote.

SENATE BILL 753 WITH HOUSE AMENDMENTS

Senator Van de Putte called **SB 753** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 753** by striking SECTION 10 of the bill and substituting the following:
SECTION 10. Section 481.074, Health and Safety Code, is amended by amending Subsections (b), (c), and (f), and by adding Subsections (o) and (p) to read as follows:

(b) Except in an emergency as defined by rule of the director or as provided by Subsection (o) or Section 481.075(j) or (m), a person may not dispense or administer a controlled substance listed in Schedule II without the written prescription of a practitioner on an official prescription form that meets the requirements of and is completed by the practitioner in accordance with Section 481.075~~[-and if the controlled substance is to be dispensed, the practitioner must be registered under Section 481.063]~~. In an emergency, a person may dispense or administer a controlled substance listed in Schedule II on the oral or telephonically communicated prescription of a practitioner. The person who administers or dispenses the substance shall:

(1) if the person is a prescribing practitioner or a pharmacist, promptly comply with Subsection (c); or

(2) if the person is not a prescribing practitioner or a pharmacist, promptly write the oral or telephonically communicated prescription and include in the written record of the prescription the name, address, and Federal Drug Enforcement Administration number of the prescribing practitioner, all information required to be provided by a practitioner under Section 481.075(e)(1), and all information required to be provided by a dispensing pharmacist under Section 481.075(e)(2).

(c) Not later than the seventh day after the date a prescribing practitioner authorizes ~~[72 hours after authorizing]~~ an emergency oral or telephonically communicated prescription, the prescribing practitioner shall cause a written prescription, completed in the manner required by Section 481.075, to be delivered in person or mailed to the dispensing pharmacist at the pharmacy where the prescription was dispensed. The envelope of a prescription delivered by mail must be postmarked not later than the seventh day after the date ~~[72 hours after]~~ the prescription was authorized. On receipt of the prescription, the dispensing pharmacy shall file the transcription of the telephonically communicated prescription and the pharmacy copy and shall send information to the director as required by Section 481.075. ~~[The pharmacist or the pharmacy that employs the pharmacist shall send all information required by the director, including any information required to complete an official prescription form, to the director by electronic transfer, a universal claim form customarily used by pharmaceutical service providers, or other form approved by the director not later than the 30th day after the date the prescription was dispensed.]~~

(f) A prescription for a Schedule II controlled substance written for a patient in a long-term care facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units. If there is any question about whether a patient may be classified as having a terminal illness, the pharmacist must contact the practitioner before ~~[prior to]~~ partially filling the prescription. Both the pharmacist and the practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist must record the prescription on an official prescription form and must indicate on the form whether the patient is "terminally ill" or an "LTCF patient."

A prescription that is partially filled and does not contain the notation "terminally ill" or "LTCF patient" is considered ~~[shall be deemed]~~ to have been filled in violation of this chapter ~~[Act]~~. For each partial filling, the dispensing pharmacist shall record on the back of the official prescription form the date of the partial filling, the quantity dispensed, the remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. Before ~~[Prior to]~~ any subsequent partial filling, the pharmacist must ~~[is to]~~ determine that the additional partial filling is necessary. The total quantity of Schedule II controlled substances dispensed in all partial fillings may ~~[must]~~ not exceed the total quantity prescribed. Schedule II prescriptions for patients in a long-term care facility or patients with a medical diagnosis documenting a terminal illness are ~~[shall be]~~ valid for a period not to exceed 60 ~~[30]~~ days following ~~[from]~~ the issue date unless sooner terminated by discontinuance of the medication.

(o) A pharmacist may dispense a Schedule II controlled substance pursuant to a facsimile copy of an official prescription completed in the manner required by Section 481.075 and transmitted by the practitioner or the practitioner's agent to the pharmacy if:

(1) the prescription is written for:

(A) a Schedule II narcotic or non-narcotic substance for a patient in a long-term care facility (LTCF), and the practitioner notes on the prescription "LTCF patient";

(B) a Schedule II narcotic product to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion; or

(C) a Schedule II narcotic substance for a patient with a medical diagnosis documenting a terminal illness or a patient enrolled in a hospice care program certified or paid for by Medicare under Title XVIII or a hospice program that is licensed under Chapter 142, and the practitioner or the practitioner's agent notes on the prescription "hospice patient"; and

(2) the prescribing practitioner promptly complies with Subsection (p).

(p) Not later than the seventh day after the date a prescribing practitioner transmits the facsimile copy of the official prescription to the pharmacy, the prescribing practitioner shall deliver in person or mail the official written prescription to the dispensing pharmacist at the pharmacy where the prescription was dispensed. The envelope of a prescription delivered by mail must be postmarked not later than the seventh day after the date the official prescription was written. On receipt of the prescription, the dispensing pharmacy shall file the facsimile copy of the prescription with the official prescription and shall send information to the director as required by Section 481.075.

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **SB 753**, in proposed Subsection (o), Section 481.074, Health and Safety Code, by striking Paragraph (C) and substituting the following:

(C) a Schedule II narcotic substance for a patient with a medical diagnosis documenting a terminal illness or a patient enrolled in a hospice care program certified or paid for by Medicare under Title XVIII or a hospice program

that is licensed under Chapter 142, and the practitioner or the practitioner's agent notes on the prescription "terminally ill" or "hospice patient"; and

The amendments were read.

On motion of Senator Van de Putte, the Senate concurred in the House amendments to **SB 753** by a viva voce vote.

GUESTS PRESENTED

The Presiding Officer, Senator Brown in Chair, introduced to the Senate the national champion Bellaire Little League baseball team from Bellaire.

The Senate welcomed its guests.

SENATE BILL 874 WITH HOUSE AMENDMENT

Senator Lindsay called **SB 874** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 874** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain political subdivisions to require bidders to attend pre-bid conferences as a condition for accepting a bid.

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

SECTION 1. Subchapter C, Chapter 262, Local Government Code, is amended by adding Section 262.0256 to read as follows:

Sec. 262.0256. PRE-BID CONFERENCE FOR CERTAIN COUNTIES OR A DISTRICT GOVERNED BY THOSE COUNTIES. (a) This section applies only to a county with a population of 2.8 million or more.

(b) The commissioners court of the county or the governing body of a district or authority created under Section 59, Article XVI, Texas Constitution, if the governing body is the commissioners court of the county in which the district is located, may require a principal, officer, or employee of each prospective bidder to attend a mandatory pre-bid conference conducted for the purpose of discussing contract requirements and answering questions of prospective bidders.

SECTION 2. Section 262.027, Local Government Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding any other requirement of this section, the commissioners court may condition acceptance of a bid on compliance with a requirement for attendance at a mandatory pre-bid conference under Section 262.0256.

SECTION 3. Subchapter C, Chapter 271, Local Government Code, is amended by adding Section 271.0565 to read as follows:

Sec. 271.0565. PRE-BID CONFERENCE FOR CERTAIN COUNTIES OR A DISTRICT GOVERNED BY THOSE COUNTIES. (a) This section applies only to a county with a population of 2.8 million or more.

(b) The commissioners court of the county or the governing body of a district or authority created under Section 59, Article XVI, Texas Constitution, if the governing body is the commissioners court of the county in which the district is located, may

require a principal, officer, or employee of each prospective bidder to attend a mandatory pre-bid conference conducted for the purpose of discussing contract requirements and answering questions of prospective bidders.

SECTION 4. Section 271.057, Local Government Code, is amended to read as follows:

Sec. 271.057. AWARD OF CONTRACT. (a) Except as provided by Subsection (b), a [A] contract let under this subchapter for the construction of public works or the purchase of materials, equipment, supplies, or machinery and for which competitive bidding is required by this subchapter must be let to the lowest responsible bidder and, as the governing body determines, may be let on a lump-sum basis or unit price basis.

(b) The commissioners court may condition acceptance of a bid on compliance with a requirement for attendance at a mandatory pre-bid conference under Section 271.0565.

SECTION 5. 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 Lindsay moved to concur in the House amendment to **SB 874**.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

SENATE BILL 31 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 31** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Brown in Chair, laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend **SB 31** by inserting on page 3, line 5 "make reasonable efforts to" between "shall" and "obtain"

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 31**.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

GUESTS PRESENTED

Senator Armbrister was recognized and introduced to the Senate students from Runge High School in Runge.

The Senate welcomed its guests.

SENATE BILL 289 WITH HOUSE AMENDMENTS

Senator Armbrister called **SB 289** from the President's table for consideration of the House amendments to the bill.

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

Committee Amendment No. 1

Amend **SB 289** as follows:

(1) Strike SECTION 1 of the bill on page 1, beginning on line 5 of the enrolled version and substitute the following:

SECTION 1. Section 11.329, Water Code, is amended by adding Subsection (g) to read as follows:

(g) The commission may not assess costs under this section against a holder of a non-priority hydroelectric right that owns or operates privately-owned facilities that collectively have a capacity of less than two megawatts. This subsection is not intended to affect in any way the fees assessed on a water right holder by the commission under Chapter 626 1.29(d), Acts of the 73rd Legislature, Regular Session, 1993. For purposes of Chapter 626 1.29(d), Acts of the 73rd Legislature, Regular Session, 1993, a holder of a non-priority hydroelectric right that owns or operates privately-owned facilities that collectively have a capacity of less than two megawatts shall be assessed fees at the same rate per acre-foot charged to a holder of a non-priority hydroelectric right that owns or operates privately-owned facilities that collectively have a capacity of more than two megawatts.

Committee Amendment No. 2

Amend **SB 289** as follows:

(a) On page 1, line 21, insert "privately-owned" between "operates" and "facilities".

(b) On page 2, line 7, insert "privately-owned" between "operates" and "facilities".

The amendments were read.

On motion of Senator Armbrister, the Senate concurred in the House amendments to **SB 289** by a viva voce vote.

SENATE BILL 1202 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 1202** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1202** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the limits on compensation paid by the state to certain victims of crime.

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

SECTION 1. Article 56.42(b), Code of Criminal Procedure, is amended to read as follows:

(b) In addition to an award payable under Subsection (a), the attorney general may award an additional \$75,000 [~~\$50,000~~] for extraordinary pecuniary losses, if the personal injury to a victim is catastrophic and results in a total and permanent disability to the victim, for lost wages and reasonable and necessary costs of:

- (1) making a home or automobile accessible;
- (2) obtaining job training and vocational rehabilitation;
- (3) training in the use of special appliances; ~~and~~
- (4) receiving home health care;
- (5) durable medical equipment;
- (6) rehabilitation technology; and
- (7) long-term medical expenses incurred as a result of medically indicated

treatment for the personal injury.

SECTION 2. (a) The change in law made by this Act applies only to a claim for compensation from the compensation to victims of crime fund based on an offense committed or a violation that occurs on or after the effective date of this Act. For purposes of this section, an offense was committed or a violation occurred before the effective date of this Act if any element of the offense or violation occurred before that date.

(b) A claim for compensation from the compensation to victims of crime fund based on an offense committed or a violation that occurred before the effective date of this Act is covered by the law in effect when the offense was committed or the violation occurred, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2001.

The amendment was read.

On motion of Senator Zaffirini, the Senate concurred in the House amendment to **SB 1202** by a viva voce vote.

SENATE BILL 1095 WITH HOUSE AMENDMENT

Senator Carona called **SB 1095** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1095** as follows:

(1) On page 2, strike lines 19-23 and substitute:
information pertaining to the property that the firm considered in appraising the property, including information showing each method of appraisal used to determine the value of the property and all calculations, personal notes, correspondence, and working papers used in appraising the property. This subsection does not apply to information made confidential by Section 22.27, except that the property owner or agent is entitled to inspect and copy any information relating to the owner's property, including otherwise confidential information.

(2) On page 2, strike line 24 and substitute "(d) The appraisal firm shall make information covered by".

(3) On page 3, line 6, strike "entity" and substitute "firm".

(4) On page 3, line 7, between "inspection" and "under Subsection (c)", insert "or copying".

(5) On page 3, line 12, strike "entity" and substitute "firm".

The amendment was read.

On motion of Senator Carona, the Senate concurred in the House amendment to **SB 1095** by a viva voce vote.

SENATE BILL 660 WITH HOUSE AMENDMENT

Senator Carona called **SB 660** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 660** (House Committee Printing, page 5, line 5) in SECTION 9 of the bill by striking "eight" and inserting "sixteen".

The amendment was read.

On motion of Senator Carona, the Senate concurred in the House amendment to **SB 660** by a viva voce vote.

SENATE BILL 685 WITH HOUSE AMENDMENT

Senator Madla called **SB 685** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 2

Amend **SB 685** by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 2053, Occupations Code, is amended by adding Section 2053.003 to read as follows:

Sec. 2053.003. SUNSET REVIEW. (a) The Sunset Advisory Commission shall review this chapter, evaluate the operation and effectiveness of this chapter, and, not later than January 1, 2003, make recommendations to the legislature and the governor regarding:

(1) the public necessity for this chapter; and

(2) whether this chapter should be continued, modified, or repealed.

(b) In its evaluation of this chapter under Subsection (a), the commission shall apply the criteria provided by Section 325.011, Government Code, to the extent those criteria are applicable.

The amendment was read.

On motion of Senator Madla, the Senate concurred in the House amendment to **SB 685** by a viva voce vote.

SENATE BILL 661 WITH HOUSE AMENDMENT

Senator Carona called **SB 661** from the President's table for consideration of the House amendment to the bill.

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

Committee Amendment No. 1

Amend **SB 661** at page 2, line 23 by deleting the following language: "(Y) an attorney representing the state."

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 661**.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

(President in Chair)

SENATE BILL 1629 WITH HOUSE AMENDMENTS

Senator Wentworth called **SB 1629** from the President's table for consideration of the House amendments to the bill.

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

Committee Amendment No. 1

Amend **SB 1629** as follows:

On page 22, line 9, after "boundaries" insert a "." and strike the remainder of the sentence.

Committee Amendment No. 2

Amend **SB 1629** as follows:

On page 23, line 7, after "agreement." strike the remainder of the paragraph.

The amendments were read.

Senator Wentworth moved to concur in the House amendments to **SB 1629**.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

SENATE BILL 415 WITH HOUSE AMENDMENT

Senator Carona called **SB 415** 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 415** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to operation of the Texas Medical Liability Insurance Underwriting Association and to participation of nursing homes in that association.

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

SECTION 1. Section 2(6), Article 21.49-3, Insurance Code, is amended to read as follows:

(6) "Health care provider" means:

(A) any person, partnership, professional association, corporation, facility, or institution duly licensed or chartered by the State of Texas to provide health care as defined in Section 1.03(a)(2) [~~1.03(2)~~], Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), as:

(i) a registered nurse, hospital, dentist, podiatrist, pharmacist, chiropractor, or optometrist;

(ii) a for-profit[~~;~~] or not-for-profit nursing home;

(iii) [~~or~~] a radiation therapy center that is independent of any other medical treatment facility and which is licensed by the Texas Department of Health in that agency's capacity as the Texas [State] Radiation Control Agency pursuant to the provisions of Chapter 401, Health and Safety Code, and which is in compliance with the regulations promulgated under that chapter;

(iv) [~~by the Texas State Radiation Control Agency,~~] a blood bank that is a nonprofit corporation chartered to operate a blood bank and which is accredited by the American Association of Blood Banks;

(v) [~~;~~] a nonprofit corporation which is organized for the delivery of health care to the public and which is certified under Chapter 162, Occupations Code; [Article 4509a, Revised Civil Statutes of Texas, 1925,] or

(vi) a [~~migrant~~] health center as defined by 42 U.S.C. Section 254b [P.L. 94-63], as amended; [(42 U.S.C. Section 254b), or a community health center as defined by P.L. 94-63, as amended (42 U.S.C. Section 254c), that is receiving federal funds under an application approved under either Title IV, P.L. 94-63, as amended (42 U.S.C. Section 254b), or Title V, P.L. 94-63, as amended (42 U.S.C. Section 254c);] or

(B) an officer, employee, or agent of an entity listed in Paragraph (A) [~~any of them~~] acting in the course and scope of that person's [~~his~~] employment.

SECTION 2. Section 3A, Article 21.49-3, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) In consultation with the Texas Department of Human Services, the commissioner shall, by rule, adopt minimum underwriting standards for for-profit nursing homes that must be met before a for-profit nursing home may obtain coverage through the association. The standards must ensure the highest practical level of care for residents of those nursing homes.

SECTION 3. Section 4(b)(1), Article 21.49-3, Insurance Code, is amended to read as follows:

(1) The rates, rating plans, rating rules, rating classifications, territories, and policy forms applicable to the insurance written by the association and statistics

relating thereto shall be subject to Subchapter B of Chapter 5 of the Insurance Code, as amended, giving due consideration to the past and prospective loss and expense experience for medical professional liability insurance within and without this state of all of the member companies of the association, trends in the frequency and severity of losses, the investment income of the association, and such other information as the commissioner [board] may require; provided, that if any article of the above subchapter is in conflict with any provision of this Act, this Act shall prevail. For purposes of this article, rates, rating plans, rating rules, rating classifications, territories, and policy forms for for-profit nursing homes are subject to the requirements of Article 5.15-1 of this code to the same extent as not-for-profit nursing homes.

SECTION 4. Section 4, Article 21.49-3, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) A policy of medical liability insurance issued to or renewed for a physician or health care provider by the association under this article may not include coverage for punitive damages assessed against the physician or health care provider.

SECTION 5. Section 4A, Article 21.49-3, Insurance Code, is amended to read as follows:

Sec. 4A. POLICYHOLDER'S STABILIZATION RESERVE FUND. (a) There is hereby created a policyholder's stabilization reserve fund which shall be administered as provided herein and in the plan of operation of the association.

(b) Each policyholder shall pay annually into the stabilization reserve fund a charge, the amount of which shall be established annually by advisory directors chosen by health care providers and physicians eligible for insurance in the association in accordance with the plan of operation. The charge shall be in proportion to each premium payment due for liability insurance through the association. Such charge shall be separately stated in the policy, but shall not constitute a part of premiums or be subject to premium taxation, servicing fees, acquisition costs, or any other such charges.

(c) The ~~[policyholder's]~~ stabilization reserve fund shall be collected and administered by the association and shall be treated as a liability of the association along with and in the same manner as premium and loss reserves. The fund shall be valued annually by the board of directors as of the close of the last preceding year.

(d) Except as provided by Subsection (e) of this section, collections [Collections] of the stabilization reserve fund charge shall continue only until such time as the net balance of the stabilization reserve fund is not less than the projected sum of premiums to be written in the year following valuation date.

(e) If in any fiscal year the incurred losses and defense and cost-containment expenses from physicians or any single category of health care provider result in a net underwriting loss and exceed 25 percent of the stabilization reserve fund, as valued for that year, the commissioner may by order direct the initiation or continuation of the stabilization reserve fund charge for physicians or that category of health care provider until the fund recovers the amount by which those losses and cost-containment expenses exceed 25 percent of the fund.

(f) The stabilization reserve fund shall be credited with all stabilization reserve fund charges collected from policyholders and shall be charged with any deficit from the prior year's operation of the association.

SECTION 6. Sections 2, 3A, and 4, Article 21.49-3, Insurance Code, as amended by this Act, apply only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2002. A policy delivered, issued for delivery, or renewed before January 1, 2002, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2001.

The amendment was read.

Senator Carona moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **SB 415** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Carona, Chair; Moncrief, Madla, Sibley, and Zaffirini.

SENATE BILL 1834 ON SECOND READING

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

SB 1834, Relating to reimbursements to property owners following foreclosure sales by property owners' associations.

The bill was read second time.

(Senator Sibley in Chair)

Senator Lindsay offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1834** in SECTION 1 of the bill by striking added Subsection (c), Section 51.008, Property Code (senate committee printing, page 1, lines 30-35), and substituting the following:

(c) If a property owners' association authorizes the sale of real property, the property owners' association shall establish a minimum bid price and may not sell the property for less than the minimum bid price. The minimum bid price shall be the greater of:

(1) the value of the property according to the most recent appraisal by the appraisal district established for the county in which the property is located, minus:

(A) the amount owing on any liens of record against the property; and

(B) the amount of any taxes owing on the property, whether or not the taxes are delinquent; or

(2) the amount owed on the debt for which the sale is authorized plus any expenses expected to be attributed to the sale.

(d) In establishing the minimum bid price under Subsection (c), the property owners' association may use any amount applicable under Subsection (c) on or after the 20th day before the date the property owners' association mails notice of sale to the property owner.

(e) The property owners' association shall mail a preforeclosure notice to the property owner not later than the 60th day before the date the notice of sale under Subsection (d) is mailed to the property owner. The preforeclosure notice must:

(1) inform the property owner that the property owners' association:

(A) intends to foreclose the association's lien on the property; and

(B) will establish a minimum bid price for the foreclosure sale;

(2) request the property owner to provide documentary evidence to the property owners' association regarding the existence and amount of any lien on the property;

(3) state that if the requested documentary evidence is provided on or before the 40th day after the date the notice is mailed, the minimum bid price will be the greater of:

(A) the value of the property according to the most recent appraisal by the appraisal district established for the county in which the property is located, minus:

(i) the amount owing on any liens of record against the property; and

(ii) the amount of any taxes owing on the property, whether or not the taxes are delinquent; or

(B) the amount owed on the debt for which the sale is authorized plus any expenses expected to be attributed to the sale;

(4) state that if the property owner does not provide the requested documentary evidence on or before the 40th day after the date the notice is mailed or provides incomplete information and there are any liens of record against the property, the property owners' association may establish a minimum bid price that is the amount owed for the debt for which the sale is authorized plus any expenses expected to be attributed to the sale;

(5) provide the name and address of the person to whom the requested documentary evidence may be provided; and

(6) state the amount the property owners' association claims is owed on the debt for which the foreclosure sale will be authorized and the amount the property owners' association will add for expenses.

(f) The property owner has the burden of ensuring that any documentary evidence reaches the person designated in the preforeclosure notice within the period prescribed by Subsection (e).

(g) The property owners' association has the burden of:

(1) checking the real property records of the county in which all or part of the property is located to determine whether a lien of record has been filed on the property; and

(2) obtaining a statement of the appraised value of the property from the appraisal district established for the county in which the property is located.

(h) If the real property to be sold under this section is the principal residence of the property owner, not later than the 20th day after the date the preforeclosure notice is mailed, the property owners' association shall make a reasonable attempt to contact the property owner in person to advise the property owner regarding the information

required to be in the preforeclosure notice. An attempt to contact the property owner must be made by a member of the governing body of the property owners' association. If no contact is made, the property owners' association must make at least three attempts to contact the property owner by telephone and three attempts to contact the owner in person at the owner's residence. If the attempts to contact the property owner by telephone and in person are not successful, a member of the governing body of the property owners' association shall leave an additional copy of the preforeclosure notice affixed to the front door of the residence.

(i) If the property owners' association finds no liens of record filed on the property to be sold, the minimum bid price is the appraised value of the property according to the most recent appraisal by the appraisal district established for the county in which the property is located. If the property owners' association finds a lien of record filed on the property and provides a preforeclosure notice as prescribed by this section, and the property owner fails to respond to the notice in the period prescribed by Subsection (e):

(1) it is conclusively presumed that the amount owed on the lien equals or exceeds the difference between the appraised value of the property and the amount owed on the debt for which the sale is authorized plus any expenses expected to be attributed to the sale; and

(2) the minimum bid price may be established as the amount owed on the debt for which the sale is authorized plus any expenses expected to be attributed to the sale.

(j) A person does not have a cause of action against a property owners' association for the property owners' association's failure to establish a lower minimum bid price.

(k) The property owner has a cause of action against the property owners' association for damages caused by the property owners' association's failure to set a greater minimum bid price as prescribed by this section. Damages under this subsection are limited to the difference between the greater minimum bid price that the property owners' association should have established under this section and the amount owed on the debt for which the sale is authorized plus the expenses of the sale. The property owner is also entitled to recover reasonable attorney's fees.

(l) If no other bidder bids the minimum bid price, the property owners' association may hold the property and must resell the property for a price that equals or exceeds the minimum bid price. If the property is held by the property owners' association as provided by this subsection and the property was the principal residence of the property owner at the time the preforeclosure notice was mailed, the property owner may continue to reside on the property until the closing on the resale of the property if all mortgage or other lien payments are current and no taxes owed on the property are delinquent.

(m) If the property owner continues to reside on the property after the foreclosure sale, the property owners' association may charge a reasonable rent to be deducted from the amount owed the property owner at the time of the resale. If the property owner does not pay all mortgage and other lien payments and taxes when due, the property owners' association may evict the property owner.

(n) When the property is sold to a buyer other than the property owners' association, the proceeds shall be applied in the following priority:

(1) expenses of the sale;

(2) the amount owed on the debt for which the sale was authorized;

(3) any assessments that accrued against the property after the sale was authorized;

(4) the remainder, if any, to be paid to the property owner.

(o) Assessments continue to accrue against the property after a foreclosure sale, regardless of who owns the property.

(p) If the property owner continues to live on the property after a foreclosure sale as provided by Subsection (l), the property owner is responsible for reasonable maintenance of the property. The property owners' association is entitled to make an inspection of the property at a reasonable time on or before the 10th day after the date of the foreclosure sale and once every 60 days thereafter. If a property owner does not reasonably maintain the property in a condition as good as or better than the condition of the property on the date of the foreclosure sale, the property owners' association may make the needed repairs or maintenance and deduct the reasonable cost of the repairs or maintenance from the amount due the property owner at the time of resale.

(q) If the property is held by the property owners' association as provided by Subsection (l) and the property is the principal residence of the property owner at the time the preforeclosure notice is mailed and the property owner is evicted from the property, on or before the first anniversary of the date the property owner moved from the property, the property owners' association shall pay the property owner:

(1) the full amount due the property owner from a resale; or

(2) if the property is not resold, the full amount that would have been due the property owner if a resale had been made for the minimum bid price.

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

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

SB 1834 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Carona and Cain asked to be recorded as voting "Nay" on the passage of **SB 1834** to engrossment.

SENATE BILL 1834 ON THIRD READING

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1834** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2, Present-not voting 1.

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

Nays: Cain, Carona.

Present-not voting: Mr. President.

Absent-excused: Staples.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 2, Present-not voting 1. (Same as previous roll call)

SENATE BILL 438 ON SECOND READING

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

SB 438, Relating to permitting the value of natural resources to be included in the assessment of damages in a condemnation proceeding in certain circumstances.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 438** by adding Subsection (d) to SECTION 1 of the bill as follows (senate committee printing, page 1, line 34):

"(d) This section does not:

(1) authorize natural resources located on or under real property to be appraised separately from the real property for property tax appraisal purposes; or

(2) subject real property condemned for the purpose described by Subsection (b) to an additional tax as provided by Section 23.46 or 23.55, Tax Code."

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

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

SB 438 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 438 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 438** be placed on its third reading and final passage.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

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

SENATE BILL 927 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:

SB 927, Relating to the transfer or donation of data processing equipment to certain public school students.

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

SENATE BILL 927 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 **SB 927** be placed on its third reading and final passage.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1. (Same as previous roll call)

(Senator Truan in Chair)

GUESTS PRESENTED

Senator Gallegos was recognized and introduced to the Senate Houston Independent School District board members and other school superintendents and board members.

The Senate welcomed its guests.

HOUSE JOINT RESOLUTION 52 ON SECOND READING

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

HJR 52, Proposing a constitutional amendment clearing land titles by relinquishing and releasing any claim of sovereign ownership or title to an interest in certain lands in Bastrop County.

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

HOUSE JOINT RESOLUTION 52 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 52** be placed on its third reading and final passage.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

The resolution was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1. (Same as previous roll call)

HOUSE JOINT RESOLUTION 53 ON SECOND READING

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

HJR 53, Proposing a constitutional amendment granting the legislature authority to release the state's interest in land that is held by a person in good faith under color of title.

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

HOUSE JOINT RESOLUTION 53 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 53** be placed on its third reading and final passage.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

The resolution was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1. (Same as previous roll call)

GUESTS PRESENTED

Senator Moncrief was recognized and introduced to the Senate fourth-grade students from Meadowbrook Elementary School in Fort Worth, accompanied by their teacher.

The Senate welcomed its guests.

(Senator Armbrister in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 1366 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 1366, Relating to preference to Texas bidders and best value for certain state procurements.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1366** (Committee Printing) as follows:

On page 1, line 17, between "revenue," and "and" insert "franchise tax revenue".

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

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

CSSB 1366 as amended was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE
SENATE BILL 1366 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 1366** be placed on its third reading and final passage.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1. (Same as previous roll call)

HOUSE BILL 16 ON SECOND READING

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

HB 16, Relating to a late application by a disabled veteran for an exemption from ad valorem taxation.

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

HOUSE BILL 16 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 16** be placed on its third reading and final passage.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

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

COMMITTEE SUBSTITUTE
HOUSE BILL 899 ON SECOND READING

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

CSHB 899, Relating to a court order for retroactive child support or for the abeyance of the enforcement of child support arrearages.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 899 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 899** be placed on its third reading and final passage.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

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

HOUSE BILL 2384 ON SECOND READING

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

HB 2384, Relating to certain firefighter and police officer employment matters in certain municipalities.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2384** as follows:

(1) In SECTION 1 of the bill, in proposed Section 143.3015(e), Local Government Code (senate committee report, page 1, line 37), between "adopted" and the period, insert "for fire fighters, police officers, or both".

(2) In SECTION 1 of the bill, in proposed Section 143.3015(f), Local Government Code (senate committee report, page 1, line 45), strike "fire fighters or police officers" and substitute "(insert fire fighters, police officers, or both, as applicable.)".

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

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

HB 2384 as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Haywood asked to be recorded as voting "Nay" on the passage of **HB 2384** to third reading.

HOUSE BILL 2384 ON THIRD READING

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2384** 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, Harris, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Haywood.

Present-not voting: Mr. President.

Absent-excused: Staples.

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

SENATE RULE 2.02 SUSPENDED (Restrictions on Admission)

On motion of Senator Lucio and by unanimous consent, Senate Rule 2.02 was suspended to grant floor privileges to a Sunset Advisory Commission staff member during the deliberation of **CSSB 322**.

COMMITTEE SUBSTITUTE SENATE BILL 322 ON SECOND READING

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

CSSB 322, Relating to the continuation and functions of the Texas Department of Housing and Community Affairs and to other matters relating to housing or community development, including the creation of the Manufactured Housing Board and the Office of Rural Community Affairs.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 322** as follows:

(1) In SECTION 1.16 of the bill, in amended Section 2306.111(d), Government Code (page 9, lines 65-66), strike "Sections 2306.671-2306.678" and substitute "Subchapter DD [Sections 2306.671-2306.678]".

(2) In SECTION 1.16 of the bill, in amended Section 2306.111(d), Government Code (page 10, line 3), between "plan" and "to", insert "and shall use other appropriate data".

(3) In SECTION 1.16 of the bill, in added Section 2306.111(g)(2), Government Code (page 10, line 15), between "practicable" and the comma, insert "and when authorized under Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42)".

(4) In SECTION 1.16 of the bill, in added Section 2306.111(g)(3), Government Code (page 10, line 18), between "ability" and "to", insert ", when consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), practicable, and economically feasible,".

(5) In SECTION 1.27 of the bill (page 21, lines 34-36), strike the introductory language and substitute "Subchapter DD, Chapter 2306, Government Code, is amended by adding Sections 2306.6741 and 2306.6761 to read as follows:".

(6) In SECTION 1.27 of the bill, strike the amended Section 2306.672, Government Code (page 21, line 37 through page 22, line 18).

(7) In SECTION 1.27 of the bill, strike amended Section 2306.675, Government Code (page 22, lines 38-58).

(8) In SECTION 1.27 of the bill, in added Section 2306.6761(b), Government Code (page 22, line 68), strike "the" and substitute "a".

(9) In SECTION 1.27 of the bill, in added Section 2306.6761(b), Government Code (page 22, line 69), between "credit" and the period, insert "from the nonprofit allocation pool".

(10) Strike SECTIONS 1.28 (page 23, lines 1-19) and 1.30 (page 23, lines 31-44) of the bill and renumber existing SECTIONS of the bill accordingly.

(11) Add an ARTICLE to the bill, with the article and the sections in the article to be numbered appropriately, to read as follows:

ARTICLE _____

SECTION _____.01. Subchapter DD, Chapter 2306, Government Code, is amended to read as follows:

SUBCHAPTER DD. LOW INCOME
HOUSING TAX CREDIT PROGRAM

Sec. 2306.6701. PURPOSE. The department shall administer the low income housing tax credit program to:

(1) encourage the development and preservation of appropriate types of rental housing for households that have difficulty finding suitable, affordable rental housing in the private marketplace;

(2) maximize the number of suitable, affordable residential rental units added to the state's housing supply;

(3) prevent losses for any reason to the state's supply of suitable, affordable residential rental units by enabling the rehabilitation of rental housing or by providing other preventive financial support under this subchapter; and

(4) provide for the participation of for-profit organizations and provide for and encourage the participation of nonprofit organizations in the acquisition, development, and operation of affordable housing developments in urban and rural communities.

Sec. 2306.6702. DEFINITIONS. (a) In this subchapter:

(1) "Applicant" means any person or affiliate of a person who files an application with the department requesting a housing tax credit allocation.

(2) "Application" means an application filed with the department by an applicant and includes any exhibits or other supporting materials.

(3) "Application log" means a form containing at least the information required by Section 2306.6709.

(4) "Application round" means the period beginning on the date the department begins accepting applications and continuing until all available housing tax credits are allocated, but not extending past the last day of the calendar year.

(5) "At-risk development" means a development that:

(A) receives the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, rental subsidy, Section 8 housing assistance payment, rental supplement payment, or rental assistance payment under the following federal laws, as applicable:

(i) Sections 221(d)(3) and (5), National Housing Act (12 U.S.C. Section 1715l);

(ii) Section 236, National Housing Act (12 U.S.C. Section 1715z-1);

(iii) Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);

(iv) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);

(v) the Section 8 Additional Assistance Program for housing developments with HUD-Insured and HUD-Held Mortgages administered by the United States Department of Housing and Urban Development;

(vi) the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects administered by the United States Department of Housing and Urban Development; or

(vii) Sections 514, 515, and 516, Housing Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486); and

(B) is subject to the following conditions:

(i) the stipulation to maintain affordability in the contract granting the subsidy is nearing expiration; or

(ii) the federally insured mortgage on the development is eligible for prepayment or is nearing the end of its term.

(6) "Development" means a proposed qualified low income housing project, as defined by Section 42(g), Internal Revenue Code of 1986 (26 U.S.C. Section 42(g)), that consists of one or more buildings containing multiple units, that is financed under a common plan, and that is owned by the same person for federal tax purposes, including a project consisting of multiple buildings that:

(A) are located on scattered sites; and

(B) contain only rent-restricted units.

(7) "Development owner" means any person or affiliate of a person who owns or proposes a development or expects to acquire control of a development under a purchase contract approved by the department.

(8) "Housing tax credit" means a tax credit allocated under the low income housing tax credit program.

(9) "Land use restriction agreement" means an agreement between the department, the development owner, and the development owner's successors in interest that encumbers the development with respect to the requirements of this subchapter and the requirements of Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42).

(10) "Qualified allocation plan" means a plan adopted by the board under this subchapter that:

(A) provides the threshold, scoring, and underwriting criteria based on housing priorities of the department that are appropriate to local conditions;

(B) gives preference in housing tax credit allocations to developments that, as compared to the other developments:

(i) when practicable and feasible based on available funding sources, serve the lowest income tenants; and

(ii) are affordable to qualified tenants for the longest economically feasible period; and

(C) provides a procedure for the department, the department's agent, or another private contractor of the department to use in monitoring compliance with the qualified allocation plan and this subchapter.

(11) "Related party" means the following individuals or entities:

(A) the brothers, sisters, spouse, ancestors, and descendants of a person within the third degree of consanguinity, as determined by Chapter 573;

(B) a person and a corporation, if the person owns more than 50 percent of the outstanding stock of the corporation;

(C) two or more corporations that are connected through stock ownership with a common parent possessing more than 50 percent of:

(i) the total combined voting power of all classes of stock of each of the corporations that can vote;

(ii) the total value of shares of all classes of stock of each of the corporations; or

(iii) the total value of shares of all classes of stock of at least one of the corporations, excluding, in computing that voting power or value, stock owned directly by the other corporation;

(D) a grantor and fiduciary of any trust;

(E) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(F) a fiduciary of a trust and a beneficiary of the trust;

(G) a fiduciary of a trust and a corporation if more than 50 percent of the outstanding stock of the corporation is owned by or for:

(i) the trust; or

(ii) a person who is a grantor of the trust;

(H) a person or organization and an organization that is tax-exempt under Section 501(a), Internal Revenue Code of 1986 (26 U.S.C. Section 501), and that is controlled by that person or the person's family members or by that organization;

(I) a corporation and a partnership or joint venture if the same persons own more than:

(i) 50 percent of the outstanding stock of the corporation; and

(ii) 50 percent of the capital interest or the profits' interest in the partnership or joint venture;

(J) an S corporation and another S corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

(K) an S corporation and a C corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

(L) a partnership and a person or organization owning more than 50 percent of the capital interest or the profits' interest in that partnership; or

(M) two partnerships, if the same person or organization owns more than 50 percent of the capital interests or profits' interests.

(12) "Rural area" means an area that is located:

(A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area;

(B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 20,000 or less and does not share a boundary with an urban area; or

(C) in an area that is eligible for funding by the Texas Rural Development Office of the United States Department of Agriculture.

(13) "Rural development agency" means the state agency designated by the legislature as primarily responsible for rural area development in the state.

(14) "Set-aside" means a reservation of a portion of the available housing tax credits to provide financial support for specific types of housing or geographic locations or serve specific types of applicants as permitted by the qualified allocation plan on a priority basis.

(15) "Threshold criteria" means the criteria used to determine whether the development satisfies the minimum level of acceptability for consideration established in the department's qualified allocation plan.

(16) "Unit" means any residential rental unit in a development consisting of an accommodation, including a single room used as an accommodation on a non-transient basis, that contains separate and complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation.

(b) For purposes of Subsection (a)(11), the constructive ownership provisions of Section 267, Internal Revenue Code of 1986 (26 U.S.C. Section 267), apply. The board may lower in the qualified allocation plan the percentages described by Subsection (a)(11).

Sec. 2306.67021. APPLICABILITY OF SUBCHAPTER. Except as provided by Section 2306.6703, this subchapter does not apply to the allocation of housing tax credits to developments financed through the private activity bond program.

Sec. 2306.67022. QUALIFIED ALLOCATION PLAN; MANUAL. The board annually shall adopt a qualified allocation plan and a corresponding manual to provide information regarding the administration of and eligibility for the low income housing tax credit program.

Sec. 2306.6703. INELIGIBILITY FOR CONSIDERATION. An application is ineligible for consideration under the low income housing tax credit program if:

(1) at the time of application or at any time during the two-year period preceding the date the application round begins, the applicant or a related party is or has been:

(A) a member of the board; or

(B) the director, a deputy director, the director of housing programs, or the low income housing tax credit program manager employed by the department; or

(2) the applicant proposes to replace in less than 15 years any private activity bond financing of the development described by the application, unless:

(A) the applicant proposes to maintain for a period of 30 years or more 100 percent of the development units supported by low income housing tax credits as rent-restricted and exclusively for occupancy by individuals and families earning not more than 50 percent of the area median income, adjusted for family size; and

(B) at least one-third of all the units in the development are public housing units or Section 8 project-based units.

Sec. 2306.6704. PREAPPLICATION PROCESS. (a) To prevent unnecessary filing costs, the department by rule shall establish a voluntary preapplication process to enable a preliminary assessment of an application proposed for filing under this subchapter.

(b) The department shall award in the application evaluation process described by Section 2306.6710 an appropriate number of points as an incentive for participation

in the preapplication process established under this section.

(c) The department shall reject and return to the applicant any application assessed by the department under this section that fails to satisfy the threshold criteria required by the board in the qualified allocation plan.

(d) If feasible under Section 2306.67041, an application under this section must be submitted electronically.

Sec. 2306.67041. ON-LINE APPLICATION SYSTEM. (a) The department and the Department of Information Resources shall cooperate to evaluate the feasibility of an on-line application system for the low income housing tax credit program to provide the following functions:

(1) filing of preapplications and applications on-line;

(2) posting of on-line preapplication or application status and the application log detailing the status of, and department's evaluations and scores pertaining to, those applications; and

(3) posting of comments from applicants and the public regarding a preapplication or application.

(b) The department shall determine the process for allowing access to on-line preapplications and applications, information related to those applications, and department decisions relating to those applications.

(c) In the application cycle following the date any on-line application system becomes operational, the department shall require use of the system for submission of preapplications and applications under this subchapter.

(d) The department shall publish a status report on the implementation of the on-line application on the department's website not later than January 1, 2002.

(e) Before the implementation of the on-line application system, the department may implement the requirements of Section 2306.6717 in any manner the department considers appropriate.

Sec. 2306.6705. GENERAL APPLICATION REQUIREMENTS. An application must contain at a minimum the following written, detailed information in a form prescribed by the board:

(1) a description of:

(A) the financing plan for the development, including any nontraditional financing arrangements;

(B) the use of funds with respect to the development;

(C) the funding sources for the development, including:

(i) construction, permanent, and bridge loans; and

(ii) rents, operating subsidies, and replacement reserves; and

(D) the commitment status of the funding sources for the development;

(2) if syndication costs are included in the eligible basis, a justification of the syndication costs for each cost category by an attorney or accountant specializing in tax matters;

(3) from a syndicator or a financial consultant of the applicant, an estimate of the amount of equity dollars expected to be raised for the development in conjunction with the amount of housing tax credits requested for allocation to the applicant, including:

(A) pay-in schedules; and

(B) syndicator consulting fees and other syndication costs;

(4) if rental assistance, an operating subsidy, or an annuity is proposed for the development, any related contract or other agreement securing those funds and an identification of:

(A) the source and annual amount of the funds;

(B) the number of units receiving the funds; and

(C) the term and expiration date of the contract or other agreement;

(5) if the development is located within the boundaries of a political subdivision with a zoning ordinance, evidence in the form of a letter from the chief executive officer of the political subdivision or from another local official with jurisdiction over zoning matters that states that:

(A) the development is permitted under the provisions of the ordinance that apply to the location of the development; or

(B) the applicant is in the process of seeking the appropriate zoning and has signed and provided to the political subdivision a release agreeing to hold the political subdivision and all other parties harmless in the event that the appropriate zoning is denied;

(6) if an occupied development is proposed for rehabilitation:

(A) an explanation of the process used to notify and consult with the tenants in preparing the application;

(B) a relocation plan outlining:

(i) relocation requirements; and

(ii) a budget with an identified funding source; and

(C) if applicable, evidence that the relocation plan has been submitted to the appropriate local agency;

(7) a certification of the applicant's compliance with appropriate state and federal laws, as required by other state law or by the board; and

(8) any other information required by the board in the qualified allocation plan.

Sec. 2306.6706. ADDITIONAL APPLICATION REQUIREMENT: NONPROFIT SET-ASIDE ALLOCATION. (a) In addition to the information required by Section 2306.6705, an application for a housing tax credit allocation from the nonprofit set-aside, as defined by Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)), must contain the following written, detailed information with respect to each development owner and each general partner of a development owner:

(1) Internal Revenue Service documentation of designation as a Section 501(c)(3) or 501(c)(4) organization;

(2) evidence that one of the exempt purposes of the nonprofit organization is to provide low income housing;

(3) a description of the nonprofit organization's participation in the construction or rehabilitation of the development and in the ongoing operations of the development;

(4) evidence that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board;

(5) a third-party legal opinion stating that the nonprofit organization is not affiliated with or controlled by a for-profit organization and the basis for that opinion;

(6) a copy of the nonprofit organization's most recent audited financial statement;

(7) a list of the names and home addresses of members of the board of directors of the nonprofit organization;

(8) a third-party legal opinion stating that the nonprofit organization is eligible under Subsection (b) for a housing tax credit allocation from the nonprofit set-aside and the basis for that opinion; and

(9) evidence that a majority of the members of the nonprofit organization's board of directors principally reside:

(A) in this state, if the development is located in a rural area; or

(B) not more than 90 miles from the development in the community in which the development is located, if the development is not located in a rural area.

(b) To be eligible for a housing tax credit allocation from the nonprofit set-aside, a nonprofit organization must:

(1) control a majority of the development;

(2) if the organization's application is filed on behalf of a limited partnership, be the managing general partner; and

(3) otherwise meet the requirements of Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)).

Sec. 2306.6707. ADDITIONAL APPLICATION REQUIREMENT: DISCLOSURE OF INTERESTED PERSONS. (a) The applicant must disclose in the application the names of any persons, including affiliates of those persons and related parties, providing developmental or operational services to the development, including:

(1) a development owner;

(2) an architect;

(3) an attorney;

(4) a tax professional;

(5) a property management company;

(6) a consultant;

(7) a market analyst;

(8) a tenant services provider;

(9) a syndicator;

(10) a real estate broker or agent or a person receiving a fee in connection with services usually provided by a real estate broker or agent;

(11) at the time the application is submitted, the owners of the property on which the development is located;

(12) a developer; and

(13) a builder or general contractor.

(b) For each person described by Subsection (a), the application must disclose any company name, company contact person, address, and telephone number.

Sec. 2306.6708. APPLICATION CHANGES OR SUPPLEMENTS. (a) Except as provided by Subsection (b), an applicant may not change or supplement an application in any manner after the filing deadline.

(b) This section does not prohibit an applicant from:

(1) at the request of the department, clarifying information in the application or correcting administrative deficiencies in the application; or

(2) amending an application after allocation of housing tax credits in the manner provided by Section 2306.6712.

Sec. 2306.6709. APPLICATION LOG. (a) In a form prescribed by the department, the department shall maintain for each application an application log that tracks the application from the date of its submission.

(b) The application log must contain at least the following information:

(1) the names of the applicant and related parties;

(2) the physical location of the development, including the relevant region of the state;

(3) the amount of housing tax credits requested for allocation by the department to the applicant;

(4) any set-aside category under which the application is filed;

(5) the score of the application in each scoring category adopted by the department under the qualified allocation plan;

(6) any decision made by the department or board regarding the application, including the department's decision regarding whether to underwrite the application and the board's decision regarding whether to allocate housing tax credits to the development;

(7) the names of persons making the decisions described by Subdivision (6), including the names of department staff scoring and underwriting the application, to be recorded next to the description of the applicable decision;

(8) the amount of housing tax credits allocated to the development; and

(9) a dated record and summary of any contact between the department staff, the board, and the applicant or any related parties.

Sec. 2306.6710. EVALUATION AND UNDERWRITING OF APPLICATIONS.

(a) In evaluating an application, the department shall determine whether the application satisfies the threshold criteria required by the board in the qualified allocation plan. The department shall reject and return to the applicant any application that fails to satisfy the threshold criteria.

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system based on criteria that are adapted to regional market conditions and adopted by the department, including criteria:

(1) regarding:

(A) the income levels of tenants of the development;

(B) the rent levels of the units;

(C) the period of guaranteed affordability for low income tenants;

(D) the cost by square foot of the development;

(E) the size, quality, and amenities of the units;

(F) the services to be provided to tenants of the development;

(G) the commitment of development funding by local political subdivisions that enables additional units for individuals and families of very low income; and

(H) the level of community support for the application, evaluated on the basis of written statements of support from local and state elected officials representing constituents in areas that include the location of the development; and

(2) imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round.

(c) The department shall publish in the qualified allocation plan details of the scoring system used by the department to score applications.

(d) The department shall underwrite the applications ranked under Subsection (b) beginning with the applications with the highest scores in each region described by Section 2306.111(d) and in each set-aside category described in the qualified allocation plan. Based on application rankings, the department shall continue to underwrite applications until the department has processed enough applications satisfying the department's underwriting criteria to enable the allocation of all available housing tax credits according to regional allocation goals and set-aside categories. To enable the board to establish an applications waiting list under Section 2306.6711, the department shall underwrite as many additional applications as the board considers necessary to ensure that all available housing tax credits are allocated within the period required by law.

(e) In adopting criteria for scoring and underwriting applications for purposes of housing tax credit allocations, the department shall attach, consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), the most weight to criteria that will:

(1) result in an allocation of housing tax credits for developments serving the lowest income tenants; and

(2) produce the greatest number of high quality units committed to remaining affordable to qualified tenants for extended periods.

Sec. 2306.6711. ALLOCATION OF HOUSING TAX CREDITS. (a) The director shall provide the application scores to the board before the 30th day preceding the date the board begins to issue commitments for housing tax credits in the allocation round.

(b) Not later than the deadline specified in the qualified allocation plan, the board shall issue commitments for available housing tax credits based on the application evaluation process provided by Section 2306.6710. The board may not allocate to an applicant housing tax credits in any unnecessary amount, as determined by the department's underwriting policy and by federal law, and in any event may not allocate to the applicant housing tax credits in an amount greater than \$1.6 million in a single application round.

(c) Concurrently with the initial issuance of commitments for housing tax credits under Subsection (b), the board shall establish a waiting list of additional applications ranked by score in descending order of priority based on set-aside categories and regional allocation goals.

(d) The board shall issue commitments for housing tax credits with respect to applications on the waiting list as additional credits become available.

(e) Not later than the 120th day after the date of the initial issuance of commitments for housing tax credits under Subsection (b), the department shall provide to an applicant who did not receive a commitment under that subsection an opportunity to meet and discuss with the department the application's deficiencies and scoring.

Sec. 2306.6712. AMENDMENT OF APPLICATION SUBSEQUENT TO ALLOCATION BY BOARD. (a) If a proposed modification would materially alter a development approved for an allocation of a housing tax credit, the department shall require the applicant to file a formal, written amendment to the application on a form prescribed by the department.

(b) The director shall require the department staff assigned to underwrite applications to evaluate the amendment and provide an analysis and written recommendation to the board. The appropriate monitor under Section 2306.6719 shall also provide to the board an analysis and written recommendation regarding the amendment.

(c) The board must vote on whether to approve the amendment. The board by vote may reject an amendment and, if appropriate, rescind the allocation of housing tax credits and reallocate the credits to other applicants on the waiting list required by Section 2306.6711 if the board determines that the modification proposed in the amendment:

(1) would materially alter the development in a negative manner; or

(2) would have adversely affected the selection of the application in the application round.

(d) Material alteration of a development includes:

(1) a significant modification of the site plan;

(2) a modification of the number of units or bedroom mix of units;

(3) a substantive modification of the scope of tenant services;

(4) a reduction of three percent or more in the square footage of the units or common areas;

(5) a significant modification of the architectural design of the development;

(6) a modification of the residential density of the development of at least five percent; and

(7) any other modification considered significant by the board.

(e) In evaluating the amendment under this subsection, the department staff shall consider whether the need for the modification proposed in the amendment was:

(1) reasonably foreseeable by the applicant at the time the application was submitted; or

(2) preventable by the applicant.

(f) This section shall be administered in a manner that is consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42).

Sec. 2306.6713. HOUSING TAX CREDIT AND OWNERSHIP TRANSFERS.

(a) An applicant may not transfer an allocation of housing tax credits or ownership of a development supported with an allocation of housing tax credits to any person other than an affiliate unless the applicant obtains the director's prior, written approval of the transfer.

(b) The director may not unreasonably withhold approval of the transfer.

(c) An applicant seeking director approval of a transfer and the proposed transferee must provide to the department a copy of any applicable agreement between the parties to the transfer, including any third-party agreement with the department.

(d) On request, an applicant seeking director approval of a transfer must provide to the department:

(1) a list of the names of transferees and related parties; and

(2) detailed information describing the experience and financial capacity of transferees and related parties.

(e) The development owner shall certify to the director that the tenants in the development have been notified in writing of the transfer before the 30th day preceding the date of submission of the transfer request to the department.

(f) Not later than the fifth working day after the date the department receives all necessary information under this section, the department shall conduct a qualifications review of a transferee to determine:

(1) the transferee's past compliance with all aspects of the low income housing tax credit program, including land use restriction agreements; and

(2) the sufficiency of the transferee's experience with developments supported with housing tax credit allocations.

Sec. 2306.6714. AT-RISK DEVELOPMENT SET-ASIDE. (a) The department shall set aside for at-risk developments not less than 15 percent of the housing tax credits available for allocation in the calendar year.

(b) Any amount of housing tax credits set aside under this section that remains after the initial allocation of housing tax credits is available for allocation to any eligible applicant as provided by the qualified allocation plan.

Sec. 2306.6715. APPEAL. (a) In a form prescribed by the department in the qualified allocation plan, an applicant may appeal the following decisions made by the department in the application evaluation process provided by Section 2306.6710:

(1) a determination regarding the application's satisfaction of threshold and underwriting criteria;

(2) the scoring of the application; and

(3) a recommendation as to the amount of housing tax credits to be allocated to the application.

(b) An applicant may not appeal a decision made under Section 2306.6710 regarding an application filed by another applicant.

(c) An applicant must file a written appeal authorized by this section with the department not later than the seventh day after the date the department publishes the results of the application evaluation process provided by Section 2306.6710. In the appeal, the applicant must specifically identify the applicant's grounds for appeal, based on the original application and additional documentation filed with the original application.

(d) The director shall respond in writing to the appeal not later than the 14th day after the date of receipt of the appeal. If the applicant is not satisfied with the director's response to the appeal, the applicant may appeal directly in writing to the board, provided that an appeal filed with the board under this subsection must be received by the board before:

(1) the seventh day preceding the date of the board meeting at which the relevant allocation decision is expected to be made; or

(2) the third day preceding the date of the board meeting described by Subdivision (1), if the director does not respond to the appeal before the date described by Subdivision (1).

(e) Board review of an appeal under Subsection (d) is based on the original application and additional documentation filed with the original application. The board may not review any information not contained in or filed with the original application. The decision of the board regarding the appeal is final.

Sec. 2306.6716. FEES. (a) A fee charged by the department for filing an application may not be excessive and must reflect the department's actual costs in processing the application, providing copies of documents to persons connected with the application process, and making appropriate information available to the public through the department's website.

(b) The department shall publish not later than July 1 of each year a schedule of application fees that specifies the amount to be charged at each stage of the application process.

(c) In accordance with the fee schedule, the department shall refund the balance of any fees collected for an application that is withdrawn by the applicant or that is not fully processed by the department. The department must provide the refund to the applicant not later than the 30th day after the date the last official action is taken with respect to the application.

(d) The department shall develop a sliding scale fee schedule for applications that encourages increased participation by community housing development organizations in the low income housing tax credit program.

Sec. 2306.6717. PUBLIC INFORMATION AND HEARINGS. (a) Subject to Section 2306.67041, the department shall make the following items available on the department's website:

(1) as soon as practicable, any proposed application submitted through the preapplication process established by this subchapter;

(2) before the 30th day preceding the date of the relevant board allocation decision, except as provided by Subdivision (3), the entire application, including all supporting documents and exhibits, the application log, a scoring sheet providing details of the application score, and any other document relating to the processing of the application;

(3) not later than the third working day after the date of the relevant determination, the results of each stage of the application process, including the results of the application scoring and underwriting phases and the allocation phase;

(4) before the 15th day preceding the date of board action on the amendment, notice of an amendment under Section 2306.6712 and the recommendation of the director and monitor regarding the amendment; and

(5) an appeal filed with the department or board under Section 2306.6715 or 2306.6721 and any other document relating to the processing of the appeal.

(b) The department shall provide information regarding the low income housing tax credit program, including notice regarding public hearings, board meetings, and the opening and closing dates for applications, to:

(1) local housing departments;

(2) newspapers;

(3) nonprofit organizations;

(4) on-site property managers of occupied developments that are the subject of applications; and

(5) any other interested persons, including community groups, who request the information.

(c) The department shall hold at least three public hearings in different regions of the state to receive public comments on applications and on other issues relating to the low income housing tax credit program.

(d) Notwithstanding any other provision of this section, the department may treat the financial statements of any applicant as confidential and may elect not to disclose those statements to the public.

Sec. 2306.6718. ELECTED OFFICIALS. (a) The department shall provide written notice of the filing of an application to the following elected officials:

(1) members of the legislature who represent the community containing the development described in the application; and

(2) the chief executive officer of the political subdivision containing the development described in the application.

(b) The department shall provide the elected officials with an opportunity to comment on the application during the application evaluation process provided by Section 2306.6710 and shall consider those comments in evaluating applications under that section.

(c) A member of the legislature who represents the community containing the development may hold a community meeting at which the department shall provide appropriate representation.

(d) If the department receives written notice from the mayor or county judge of an affected municipality or county opposing an application, the department must contact the mayor or county judge and offer to conduct a physical inspection of the development site and consult with the mayor or county judge before the application is scored.

Sec. 2306.6719. MONITORING OF COMPLIANCE. (a) The department may contract with an independent third party to monitor a development during its construction or rehabilitation and during its operation for compliance with:

(1) any conditions imposed by the department in connection with the allocation of housing tax credits to the development; and

(2) appropriate state and federal laws, as required by other state law or by the board.

(b) The department may assign department staff other than housing tax credit division staff to perform the relevant monitoring functions required by this section in the construction or rehabilitation phase of a development.

Sec. 2306.6720. ENFORCEABILITY OF APPLICANT REPRESENTATIONS. Each representation made by an applicant to secure a housing tax credit allocation is enforceable by the department and the tenants of the development supported with the allocation.

Sec. 2306.6721. DEBARMENT FROM PROGRAM PARTICIPATION. (a) The board by rule shall adopt a policy providing for the debarment of a person from participation in the low income housing tax credit program as described by this section.

(b) The department may debar a person from participation in the program on the basis of the person's past failure to comply with any condition imposed by the department in connection with the allocation of housing tax credits.

(c) The department shall debar a person from participation in the program if the person:

(1) materially violates any condition imposed by the department in connection with the allocation of housing tax credits;

(2) is debarred from participation in federal housing programs by the United States Department of Housing and Urban Development; or

(3) is in material noncompliance with or has repeatedly violated a land use restriction agreement regarding a development supported with a housing tax credit allocation.

(d) A person debarred by the department from participation in the program may appeal the person's debarment to the board.

Sec. 2306.6722. DEVELOPMENT ACCESSIBILITY. Any development supported with a housing tax credit allocation shall comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C.

Sec. 2306.6723. DISCRIMINATION AGAINST PERSONS RECEIVING FEDERAL HOUSING ASSISTANCE PROHIBITED. The department shall prohibit a development supported with a housing tax credit allocation from:

(1) excluding an individual or family from admission to the development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f); and

(2) using a financial or minimum income standard for an individual or family participating in the voucher program described by Subdivision (1) that requires the individual or family to have a monthly income of more than 2-1/2 times the individual's or family's share of the total monthly rent payable to the development owner.

Sec. 2306.6724. COORDINATION WITH RURAL DEVELOPMENT AGENCY. (a) The department shall jointly administer with the rural development agency any set-aside for rural areas to:

(1) ensure the maximum use and optimum geographic distribution of housing tax credits in rural areas; and

(2) provide for information sharing, efficient procedures, and fulfillment of development compliance requirements in rural areas.

(b) The rural development agency shall assist in developing all threshold, scoring, and underwriting criteria applied to applications eligible for the rural area set-aside. The criteria must be approved by that agency.

(c) To ensure that the rural area set-aside receives a sufficient volume of eligible applications, the department shall fund and, with the rural development agency, shall jointly implement outreach, training, and rural area capacity building efforts as directed by the rural development agency.

(d) The department and the rural development agency shall jointly adjust the regional allocation of housing tax credits described by Section 2306.111 to offset the under-utilization and over-utilization of multifamily private activity bonds and other housing resources in the different regions of the state.

(e) From application fees collected under this subchapter, the department shall reimburse the rural development agency for any costs incurred by the agency in carrying out the functions required by this section.

Sec. 2306.6725 [2306.674]. DEADLINES FOR ALLOCATION OF LOW INCOME HOUSING TAX CREDITS. (a) Not later than ~~September 30~~ [November 15] of each year, the department shall prepare and submit to the board for adoption the qualified allocation plan required by federal law for use by the department in setting criteria and priorities for the allocation of tax credits under the low income housing tax credit program.

(b) The board shall adopt and submit to the governor the qualified allocation plan not later than ~~November 15~~ [January 31].

(c) The governor shall approve, reject, or modify and approve the qualified allocation plan not later than ~~December 1~~ [February 28].

(d) An applicant for a low income housing tax credit to be issued a commitment during the initial allocation cycle in a calendar year must submit an application to the department not later than March 1 [~~May 15~~].

(e) The board shall review the recommendations of department staff regarding applications and shall issue a list of approved applications [~~issue a commitment for allocation for the initial cycle of low income housing tax credits~~] each year in accordance with the qualified allocation plan not later than June 30 [~~July 31~~].

(f) The board shall issue final commitments for allocations of housing tax credits each year in accordance with the qualified allocation plan not later than July 31.

Sec. 2306.6726 [2306.672]. SCORING OF APPLICATIONS. (a) [~~The goal of the low income housing tax credit program is to provide permanent affordable housing.~~] In allocating low income housing tax credits, the department shall score each application using a point system based on criteria adopted by the department that are consistent with the department's housing goals, including criteria addressing the ability of the proposed project to:

(1) provide quality social support services to residents;

(2) demonstrate community and neighborhood support as defined by the qualified allocation plan;

(3) consistent with sound underwriting practices and when economically feasible, serve individuals and families of extremely low income by leveraging private and state and federal resources, including federal HOPE VI grants received through the United States Department of Housing and Urban Development;

(4) serve traditionally underserved areas;

(5) remain affordable to qualified tenants for an extended, economically feasible period; and

(6) comply with the accessibility standards that are required under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C. [The department shall publish in the qualified allocation plan any discretionary factor that the department will consider in scoring an application.]

(b) The department shall provide appropriate incentives as determined through the qualified allocation plan to reward applicants who agree to equip the property that is the basis of the application with energy saving devices that meet the standards established by the state energy conservation office or [If an applicant meets the department's scoring and underwriting criteria, the department shall add:

[(1) five bonus points to the applicant's score if the applicant agrees] to provide to a qualified nonprofit organization or tenant organization a right of first refusal to purchase the property [to which the tax credit applies] at the minimum price provided in, and in accordance with the requirements of, Section 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7))]; and

[(2) two bonus points to the applicant's score if the application is received within the first 10 days of the application acceptance period].

(c) On [~~The department shall provide the score of each application on each criterion to the board and the governor. The results of the scoring shall be available to the public:~~

[(d) Upon] awarding tax credit allocations, the board shall document the reasons for each project's selection, including an explanation of:

(1) all discretionary factors used in making its determination; and

(2) the reasons for any decision that conflicts with the recommendations of department staff under Section 2306.6751.

(d) For each scoring criterion, the department shall use a range of points to evaluate the degree to which a proposed project satisfies the criterion. The department may not award a number of points for a scoring criterion that is disproportionate to the degree to which a proposed project complies with that criterion.

Sec. ~~2306.6727~~ [2306.673]. SALE OF CERTAIN LOW INCOME HOUSING TAX CREDIT PROPERTY. (a) Not later than two years before the expiration of the compliance period, a recipient of a low income housing tax credit who agreed to provide a right of first refusal under Section ~~2306.6726~~ [~~2306.672(b)(1)~~] and who intends to sell the property shall notify the department of the recipient's intent to sell. The recipient shall notify qualified nonprofit organizations and tenant organizations of the opportunity to purchase the property.

(b) The recipient may:

(1) during the first six-month period after notifying the department, negotiate or enter into a purchase agreement only with a qualified nonprofit organization that is also a community housing development organization as defined by the federal home investment partnership program;

(2) during the second six-month period after notifying the department, negotiate or enter into a purchase agreement with any qualified nonprofit organization or tenant organization; and

(3) during the year before the expiration of the compliance period, negotiate or enter into a purchase agreement with the department or any qualified nonprofit organization or tenant organization approved by the department.

(c) Notwithstanding an agreement under Section ~~2306.6726~~ [~~2306.672(b)(1)~~], a recipient of a low income housing tax credit may sell property to which the tax credit applies to any purchaser after the expiration of the compliance period if a qualified nonprofit organization or tenant organization does not offer to purchase the property at the minimum price provided by Section 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)), and the department declines to purchase the property.

(d) In this section, "compliance period" has the meaning assigned by Section 42(i)(1), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(1)).

Sec. ~~2306.6728~~ [2306.674]. DEPARTMENT PURCHASE OF LOW INCOME HOUSING TAX CREDIT PROPERTY. The board by rule may develop and implement a program to purchase low income housing tax credit property that is not purchased by a qualified nonprofit organization or tenant organization. The department may not purchase low income housing tax credit property if the board finds that the purchase is not in the best interest of the state.

Sec. ~~2306.6751~~ [2306.675]. ALLOCATION DECISION; REEVALUATION [~~OF LOW INCOME HOUSING TAX CREDIT~~]. (a) Department staff shall provide written, documented recommendations to the board concerning the financial or programmatic viability of each application for a low income housing tax credit before the board makes a decision relating to the allocation of tax credits. The board may not make without good cause an allocation decision that conflicts with the recommendations of department staff.

(b) Regardless of project stage, the board must reevaluate a project that undergoes a substantial change between the time of initial board approval of the project and the time of issuance of a tax credit commitment for the project. The board may revoke any tax credit commitment issued for a project that has been unfavorably

reevaluated by the board under this subsection. ~~[Not later than the deadline specified in Section 2306.671(e), the board shall issue a commitment for tax credits available to the department. Concurrently with the issuance of a commitment for initial tax credits, the board shall establish a waiting list of additional applications, ranked in descending order of priority, to be issued a commitment for tax credits if additional credits become available.~~

~~[Sec. 2306.676. EQUAL ACCESS TO PROGRAM. The department shall establish procedures through the qualified allocation plan to ensure that each applicant for a low income housing tax credit has a fair and equal opportunity to submit or resubmit an application and submit for consideration any authorized supplementary materials and information.~~

~~[Sec. 2306.677. FEES. (a) A fee charged by the department to an applicant for a low income housing tax credit may not be excessive and must reflect the department's actual costs in processing applications and providing copies of documents in connection with the allocation process.~~

~~[(b) The department shall refund a fee charged to an applicant if the department does not score the applicant's application, except the department may retain a reasonable portion of the fee to compensate the department for costs associated with the application.]~~

~~Sec. 2306.6781 [2306.678]. PUBLIC INFORMATION [AND HEARINGS ON PROGRAM]. [(a)] The department shall provide information regarding the low income housing tax credit program, including notices of public hearings, meetings, and opening and closing dates for applications for a low income housing tax credit, to local housing departments, any appropriate newspapers of general or limited circulation that serve the community in which the proposed project is to be located, nonprofit organizations, on-site property managers of occupied projects that are the subject of tax credit applications for posting in prominent locations at those projects, and any other interested persons and community groups[;] who request the information. The department shall also publish the information on the department's website.~~

~~Sec. 2306.6782. REPRESENTATION BY FORMER BOARD MEMBER OR OTHER PERSON. (a) A former board member or a former director, deputy director, director of housing programs, or low income housing tax credit program manager employed by the department may not:~~

~~(1) for compensation, represent an applicant for an allocation of low income housing tax credits or a related party before the second anniversary of the date that the board member's, director's, or manager's service in office or employment with the department ceases;~~

~~(2) represent any applicant or related party or receive compensation for services rendered on behalf of any applicant or related party regarding the consideration of a housing tax credit application in which the former board member, director, or manager participated during the period of service in office or employment with the department, either through personal involvement or because the matter was within the scope of the board member's, director's, or manager's official responsibility; or~~

~~(3) for compensation, communicate directly with a member of the legislative branch to influence legislation on behalf of an applicant or related party before the~~

second anniversary of the date that the board member's, director's, or manager's service in office or employment with the department ceases.

(b) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

Sec. 2306.6791. MINORITY-OWNED BUSINESSES. (a) The department shall require a person who receives an allocation of housing tax credits to attempt to ensure that at least 30 percent of the construction and management businesses with which the person contracts in connection with the development are minority-owned businesses.

(b) A person who receives an allocation of housing tax credits must report to the department not less than once in each 90-day period following the date of allocation regarding the percentage of businesses with which the person has contracted that qualify as minority-owned businesses.

(c) In this section:

(1) "Minority-owned business" means a business entity at least 51 percent of which is owned by members of a minority group or, in the case of a corporation, at least 51 percent of the shares of which are owned by members of a minority group, and that is managed and controlled by members of a minority group in its daily operations.

(2) "Minority group" includes:

(A) women;

(B) African Americans;

(C) American Indians;

(D) Asian Americans; and

(E) Mexican Americans and other Americans of Hispanic origin.

~~[(b) The department shall hold at least three public hearings in different regions of the state to receive public comments on low income housing tax credit applications.]~~

SECTION _____.02. The change in law made by this Act in adding Section 2306.6724, Government Code, applies only to a development for which an application for an allocation of low income housing tax credits is received by the Texas Department of Housing and Community Affairs on or after August 10, 1993.

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

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 322** in Article 7 of the bill by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Section 1372.022, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) If the state ceiling is computed on the basis of \$75 per capita or a greater amount, before August 15 of each year:

(1) 29.6 percent of the state ceiling is available exclusively for reservations by issuers of qualified mortgage bonds;

(2) 8 percent of the state ceiling is available exclusively for reservations by issuers of state-voted issues;

(3) 4.6 percent of the state ceiling is available exclusively for reservations by issuers of qualified small issue bonds and enterprise zone facility bonds;

(4) 23 percent of the state ceiling is available exclusively for reservations by issuers of qualified residential rental project bonds;

(5) 8.8 percent of the state ceiling is available exclusively for reservations by issuers of qualified student loan bonds authorized by Section 53.47, Education Code; and

(6) 26 percent of the state ceiling is available exclusively for reservations by any other issuer of bonds that require an allocation.

(c) On and after August 15 but before September 1, that portion of the state ceiling available for reservations becomes available for qualified residential rental project issues in the manner described by Section 1372.0321. On and after September 1, that portion of the state ceiling available for reservations becomes available to any issuer for any bonds that require an allocation, subject to the provisions of this subchapter.

SECTION _____. (a) In accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Section 1372.022(b), Government Code, as set out in this Act, gives effect to changes made by Chapter 131, Acts of the 76th Legislature, Regular Session, 1999.

(b) To the extent of any conflict, the changes in law made by this Act to Chapter 1372, Government Code, prevail over another Act of the 77th Legislature, Regular Session, 2001, relating to nonsubstantive additions to and corrections in enacted codes.

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

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 322** in Article 7 of the bill by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Section 1372.042(c), Government Code, is amended to read as follows:

(c) Notwithstanding Subsections (a) and (b), if the 120-day period or the 180-day period, as applicable, expires on or after December 24 of the year in which the reservation was granted, the issuer shall close on the bonds before December 24, except that if the applicable period expires after December 31 of that year, the issuer may notify the board in writing before December 24 of the issuer's election to carry forward the reservation and of the issuer's expected bond closing date. In compliance with the requirements of Section 146(f), Internal Revenue Code of 1986, the board shall file in a timely manner a carryforward election with respect to any bonds expected to close after December 31 to permit the bonds to close by the expected date, except that the board may not file the carryforward election after February 15 of the year following the year in which the reservation was granted. The grant of the reservation for the balance of the 120-day period or the 180-day period, as applicable, is automatically and immediately reinstated on the board's filing of a carryforward election with respect to the reservation [the issuer shall close on the bonds before December 24].

SECTION _____. Sections 1372.061 and 1372.062, Government Code, are amended to read as follows:

Sec. 1372.061. DESIGNATION BY BOARD OF CERTAIN AMOUNTS OF STATE CEILING AS CARRYFORWARD. (a) The board may designate as carryforward:

(1) the amount of the state ceiling that is not reserved before December 15; and

(2) any amount of the state ceiling that:

(A) was reserved before December 15; and

(B) becomes available on or after that date because of the cancellation of a reservation.

(b) The board shall designate as carryforward a reservation amount for which the board receives written notice from an issuer of an election to carry forward the reservation under Section 1372.042(c) if the bonds relating to the reservation are not required to close by December 31 of the year in which the reservation was granted.

Sec. 1372.062. PRIORITY CLASSIFICATIONS OF CARRYFORWARD DESIGNATIONS. (a) The board shall:

(1) designate amounts as carryforward in accordance with the system of priority classifications specified in Sections 1372.063-1372.068; and

(2) in each classification, make the designations in order of the application [applications] for those designations.

(b) Notwithstanding Subsection (a), the board shall designate in compliance with the requirements of Section 146(f), Internal Revenue Code of 1986, a carryforward relating to an issuer's written election under Section 1372.042(c) according to the category of bonds to which the reservation subject to the carryforward relates.

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

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

CSSB 322 as amended was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 322 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 322** be placed on its third reading and final passage.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

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

SENATE BILL 1453 ON SECOND READING

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

SB 1453, Relating to the eligibility of certain defendants convicted of felonies for release on bail pending appeal.

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

SENATE BILL 1453 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1453** be placed on its third reading and final passage.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 9, 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 846, Relating to municipal payroll deductions.
(Committee Substitute)

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 261 (142 Ayes, 0 Nays, 1 Present Not Voting)

HB 444 (viva-voce vote)

HB 822 (viva-voce vote)

HB 1132 (viva-voce vote)

HB 1178 (viva-voce vote)

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 555

House conferees: Junell - Chair/Christian/Gallego/Hochberg/West, George "Buddy"

SB 583

House conferees: Janek - Chair/Davis, John/Dukes/Solomons/Woolley

SB 1596

House conferees: Rangel - Chair/Farabee/Goolsby/Jones, Jesse/Uher

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 187 (146 Ayes, 0 Nays, 1 Present Not Voting)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

HOUSE BILL 269 ON SECOND READING

On motion of Senator Van de Putte, on behalf 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 third reading:

HB 269, Relating to the sale of alcohol in dry areas; providing criminal penalties.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 269** by adding an appropriately numbered section to read as follows and renumbering the sections of the bill accordingly:

SECTION _____. For the purpose of identifying the areas affected by the change in law made by this Act, the Texas Alcoholic Beverage Commission shall compile a listing of the precincts, municipalities, and counties that are dry areas for the purpose of Section 101.31, Alcoholic Beverage Code. Each municipality and county shall cooperate with the commission in producing and providing the information to be compiled.

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

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

HB 269 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1686 ON SECOND READING

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

HB 1686, Relating to reporting of animal diseases by veterinarians.

The bill was read second time.

(President in Chair)

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1686** as follows:

(1) In SECTION 1 of the bill, in Section 161.101, Agriculture Code, (Senate Committee Printing page 1, line 14), insert "bison" after "exotic livestock," and before "domestic."

(2) Add a new SECTION _____. and renumber the subsequent Sections accordingly.

SECTION _____. Chapter 2, Agriculture Code, is amended by adding Section 2.004. to read as follows:

Sec. 2.004. POLICY: BISON. The agriculture policy of this state must recognize that bison:

(1) are wild animals indigenous to this state;

(2) are distinct from cattle, livestock, exotic livestock and game animals; and

(3) may be raised and used for:

(A) commercial purposes; or

(B) the purpose of preserving the bison species.

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

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

HB 1686 as amended was passed to third reading by a viva voce vote.

PERMISSION TO INTRODUCE RESOLUTION

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 resolution: **SCR 56**.

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

Present-not voting: Mr. President.

Absent-excused: Staples.

SENATE RESOLUTION ON FIRST READING

The following resolution was introduced, read first time, and referred to the committee indicated:

SCR 56 by Barrientos

Establishing a special interim committee to study the problem of high school dropouts in Texas.

To Committee on Education.

HOUSE BILL ON FIRST READING

The following bill received from the House was read first time and referred to the committee indicated:

HB 150 to Committee on Redistricting.

**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.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Madla and by unanimous consent, Senate Rule 11.10 and Senate Rule 11.18 were suspended in order that the Committee on Intergovernmental Relations might meet and consider the following bills today:

HB 3633, HB 1191, HB 2405.

GUESTS PRESENTED

Senator Ogden was recognized and introduced to the Senate students from Alton Bowen Elementary School in Bryan, accompanied by their teachers.

The Senate welcomed its guests.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator West and by unanimous consent, Senate Rule 11.10 and Senate Rule 11.18 were suspended in order that the Committee on Jurisprudence might meet and consider the following bills today:

HB 3136, HB 2112, HB 3678, HB 2114.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.10 and Senate Rule 11.18 were suspended in order that the Committee on Finance might meet and consider **SB 1813** today.

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

On motion of Senator Bivins and by unanimous consent, Senate Rule 11.18 was suspended in order that the Committee on Education might consider the following bills today: **HB 3526, HB 3463, HJR 85, HB 2301, HB 1985.**

**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 1279** 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.

MOTION TO ADJOURN

On motion of Senator Truan, the Senate at 12:43 p.m. agreed to adjourn, in memory of Alejandro Gomez-Meade of Brownsville, upon conclusion of the Local and Uncontested Calendar Session tomorrow, until 9:00 a.m. tomorrow.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 975 by Wentworth, In memory of Arthur A. Seeligson, Jr., of San Antonio.

SR 992 by Lucio, In memory of Belinda M. Lerma of Brownsville.

SR 999 by Truan, In memory of Gilbert P. Mendieta of Corpus Christi.

SR 1001 by Truan, In memory of Rogerio Valdez, Jr., of Corpus Christi.

HCR 276 (President Ratliff), Paying tribute to the late Thomas D. "Tom" Wells of Paris for his public service.

HCR 277 (President Ratliff), In memory of J. C. Fisher, Jr., of Cooper.

Welcome and Congratulatory Resolutions

SCR 57 by Madla, Commending the citizens of Balmorhea.

SR 974 by Wentworth, Welcoming the *American Presidents: Life Portraits Exhibit* to the Texas Capitol.

SR 976 by Madla, Commending the members of HYPE in San Antonio.

SR 977 by Madla, Congratulating Jessica Inocencio of Lytle.

SR 978 by Madla, Congratulating Judy Kay Hereford of San Antonio.

SR 979 by Madla, Congratulating Maria Harsha of Converse.

SR 980 by Madla, Congratulating Armando Villarreal of Hondo.

SR 981 by Madla, Congratulating Terry Ann Dornak of Jourdanton.

SR 982 by Madla, Congratulating Rebecca Lee Owens of Uvalde.

SR 983 by Madla, Congratulating Joshua Herrmann of D'Hanis.

SR 984 by Madla, Congratulating Jason Sierra of San Antonio.

SR 985 by Madla, Congratulating Gabriel Castillo of Natalia.

SR 986 by Madla, Congratulating Angeline Cione of San Antonio.

SR 987 by Madla, Congratulating Lance Rothe of D'Hanis.

SR 988 by Ellis, Congratulating Karen Cheng and Nicos Christodoulides.

SR 989 by Nelson, Congratulating Dr. Clayton W. Downing of Lewisville.

SR 990 by Nelson, Congratulating Buck Jordan of Waxahachie.

SR 991 by Truan, Commending Texas A&M University—Kingsville.

SR 993 by Lucio, Congratulating the Honorable Fidencio M. Guerra, Sr.

SR 997 by Staples, Congratulating Gladys Marie Prater Herod.

SR 998 by Truan, Congratulating Maria Elisa Perez-Johnson.

SR 1000 by Truan, Congratulating Sally Daly of Corpus Christi.

HCR 272 (President Ratliff), Honoring the educators of the Mount Vernon Independent School District for their outstanding service.

RECESS

On motion of Senator Truan, the Senate at 12:44 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 9, 2001

REDISTRICTING — **CSSB 499**

FINANCE — **HB 2071, HB 2190, HB 2604, HB 2852, CSHB 2378, CSHJR 97, CSHB 3064**

INTERGOVERNMENTAL RELATIONS — **SB 1183, HB 122, HB 166, HB 200, HB 501, HB 858, HB 1091, HB 1113, HB 1254, HB 1392, HB 1393, HB 1448, HB 1469, HB 1681, HB 1683, HB 1837, HB 2002, HB 2092, HB 2185, HB 2525, HB 2580, HB 2746, HB 2869, HB 3150, HB 3191, HB 3193, HB 3413, HB 3414, HJR 2**

EDUCATION — **CSSB 824, CSSB 1827, CSHB 400, CSHB 1023, CSHB 1024, CSHB 1188, CSHB 1475, CSHB 2531**

CRIMINAL JUSTICE — **HB 84, HB 335, HB 510, HB 1680, HB 1126, HB 1658, HB 1541**

BUSINESS AND COMMERCE — **SB 1837**

EDUCATION — **CSHB 328, CSHB 2397, CSHB 2575**

STATE AFFAIRS — **SB 1836, HB 371, HB 678** (Amended), **HB 893, CSHB 1772, HB 2277** (Amended), **HB 2278, HB 3181** (Amended)

EDUCATION — **CSHB 2109**

INTERGOVERNMENTAL RELATIONS — **CSHB 785, HB 1107** (Amended),
HB 1368 (Amended), **CSHB 1886, CSHB 2262, HB 2870** (Amended),
CSHB 3068

FINANCE — **HB 1200** (Amended), **CSHB 1333** (Emergency matter)

SENT TO GOVERNOR

May 9, 2001

SB 232, SB 288, SB 571, SB 832, SB 1185, SB 1196, SB 1380

In Memory
of
Alejandro Gomez-Meade

Senator Lucio offered the following resolution:

(Senate Resolution 995)

WHEREAS, The Senate of the State of Texas joins the citizens of Brownsville in mourning the loss of prominent businessman Alejandro Gomez-Meade, who died April 18, 2001, at the age of 77; and

WHEREAS, The beloved husband, father, grandfather, and great-grandfather leaves a legacy of dedication and devotion to his family that will be forever cherished; and

WHEREAS, Born April 24, 1923, in Saint Louis, Missouri, to the late Carlos and Dolores Gomez-Meade, the longtime resident of Brownsville was a man of great moral fortitude; he believed strongly in setting goals and living by the word of the Lord and raised his children to be of the same fiber; and

WHEREAS, A devout Christian who lived his faith in his daily life, Mr. Gomez was an unselfish contributor to Saint Mary's Catholic Church, serving as an active member of the Men's Club; and

WHEREAS, Respected for his sound judgment and strong work ethic, he will be remembered for the integrity he brought to his responsibilities and the professional way he carried out his duties as an agricultural broker and salesman; and

WHEREAS, His strength of character and sense of purpose were readily apparent to all who knew him and to all whose lives he touched; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 77th Legislature, hereby extend sincere condolences to the family of Alejandro Gomez: his beloved wife of 57 years, Rosa Maria Gomez-Meade; his sons, Alejandro II and Carlos Gomez-Meade; his daughters, Dolores Montemayor, Patricia Reilly, Leticia Eads, Linda Ramirez, Hilda Castillo, and Rosemary Gomez-Meade; his niece, Hilda Valenzuela Mendez; and his grandchildren and great-grandchildren; and, be it further

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

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.

The resolution was adopted by a rising vote of the Senate.

Senator Lucio was recognized and introduced to the Senate family members of Alejandro Gomez-Meade: his widow, Rosa Gomez-Meade; his daughters, Rosemary Gomez-Meade, Linda Ramirez, and Dolores Montemayor; and his son-in-law, Jose Montemayor.

The Senate welcomed its guests and extended its sympathy.