

FIFTY-SECOND DAY
(Continued)
(Friday, April 26, 1991)

AFTER RECESS

The Senate met at 8:00 a.m. and was called to order by Senator Haley.

SENATOR ANNOUNCED PRESENT

Senator Lyon, who had previously been recorded as "Absent-excused," was announced "Present."

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Haley in Chair) announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

Pursuant to Senate Rule 9.03(d), the following bills were laid before the Senate, read second time, amended where applicable, passed to engrossment/third reading, read third time and passed: (Vote on Constitutional Three-Day Rule and final passage indicated after the caption of each bill.)

C.S.S.B. 101 (Sims, on behalf of Haley) Relating to the re-creation and operation of the Old San Antonio Road Preservation Commission. (31-0) (31-0)

C.S.S.B. 140 (Green) Relating to an exemption from regulation of certain driver-training courses and driver-training instructors. (31-0) (31-0)

S.B. 312 (Whitmire) Relating to the removal of obstructions from roadways and road rights-of-way. (31-0) (31-0)

C.S.S.B. 783 (Harris of Tarrant) Relating to binding arbitration and court appeal in property tax appraisal disputes. (31-0) (31-0)

C.S.S.B. 816 (Barrientos) Relating to membership in and benefits and administration of fire fighters' retirement systems in certain municipalities. (31-0) (31-0)

S.B. 834 (Zaffirini) Relating to the authority of a county government to improve certain roads in the county. (31-0) (31-0)

C.S.S.B. 873 (Armbrister) Relating to the regulation of the manufacture and sale of foods, drugs, devices and declaring an emergency. (31-0) (31-0)

S.B. 944 (Green) Relating to highways over which vehicles that exceed axle weight limits may operate. (31-0) (31-0)

S.B. 945 (Green) Relating to the maintenance and construction of state highways by counties. (31-0) (31-0)

S.B. 999 (Montford) Relating to changes in electoral boundaries of certain political subdivisions. (31-0) (31-0)

S.B. 1130 (Tejeda) Relating to certain payments by the state for contributions to the federal old age and survivors insurance coverage for certain judges. (31-0) (31-0)

S.B. 1149 (Brooks) Relating to fees relating to an application for a protective order against family violence. (31-0) (31-0)

S.B. 1165 (Carriker) Relating to the furnishing of lists containing the names of registered voters of political subdivisions situated in certain counties; providing a criminal penalty. (31-0) (31-0)

- S.B. 1175** (Brooks) Relating to access to criminal history information records on certain court-appointed special advocates for children. (31-0) (31-0)
- C.S.S.B. 1324** (Moncrief) Relating to benefits and administration of retirement systems in certain municipalities. (31-0) (31-0)
- C.S.S.B. 1333** (Krier) Relating to the transfer of certain suits affecting the parent-child relationship and court-ordered and administrative withholding from earnings to enforce child support orders. (31-0) (31-0)
- S.B. 1397** (Tejeda) Relating to fees charged for fire inspections in counties. (31-0) (31-0)
- S.B. 1445** (Barrientos) Relating to student fees for bus service at Southwest Texas State University. (31-0) (31-0)
- C.S.S.B. 1449** (Carriker) Relating to requiring certain disclosures by persons who submit contracts or other proposals to the governing bodies of local governments. (31-0) (31-0)
- S.B. 1460** (Brooks) Relating to the membership of the Texas Diabetes Council. (31-0) (31-0)
- S.B. 1462** (Whitmire) Relating to credit in, contributions to, and benefits and administration of retirement systems for police officers in certain municipalities. (31-0) (31-0)
- C.S.S.B. 1463** (Brooks) Relating to regulating the taking of crab, molluscan shellfish, and other aquatic life; providing civil and criminal penalties. (31-0) (31-0)
- S.B. 1465** (Sims) Relating to the creation, administration, powers, duties, operation, and financing of the Menard County Underground Water District. (31-0) (31-0)
- C.S.S.B. 1477** (Ellis) Relating to a change in an electoral boundary of a political subdivision other than a county. (31-0) (31-0)
- S.B. 1510** (Sims) Relating to the compensation of members of the Texas Animal Health Commission for performance of commission business. (31-0) (31-0)
- H.B. 153** (Sims) Relating to speed limits on certain highways. (31-0) (31-0)
- H.B. 199** (Ratliff) Relating to zoning around Lake Cooper. (31-0) (31-0)
- H.B. 552** (Ratliff) Relating to advertising and promoting the growth and development of counties. (31-0) (31-0)
- H.B. 626** (Green) Relating to a hearing that may be held before a referee under Title 3, Family Code. (31-0) (31-0)
- H.B. 627** (Green) Relating to the appointment of counsel for an indigent child for certain juvenile law proceedings. (31-0) (31-0)
- H.B. 721** (Sims) Relating to retiree participation in elections of elected board of trustee members of the Employees Retirement System of Texas. (31-0) (31-0)
- H.B. 1093** (Dickson) Relating to the establishment of debit card suspense accounts at Texas Youth Commission facilities. (31-0) (31-0)
- H.B. 1487** (Harris of Tarrant) Relating to notice of change of residence for conservator of a child. (31-0) (31-0)

**BILL REMOVED FROM LOCAL AND UNCONTESTED
BILLS CALENDAR**

<u>Number</u>	<u>Senators Removing</u>
H.B. 1128	Henderson and Haley

**CONCLUSION OF SESSION FOR LOCAL AND
UNCONTESTED BILLS CALENDAR**

The Presiding Officer (Senator Haley in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 8:17 a.m. adjourned until 9:00 a.m. today.

**FIFTY-THIRD DAY
(Friday, April 26, 1991)**

The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejada, Truan, Turner, Zaffirini.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

A quorum was announced present.

The Reverend Albert Elam, First Baptist Church, Dale, offered the invocation as follows:

Our dear God, we come to You in the name of Jesus Christ our Lord, to ask for Your blessing for this day. And as these our leaders look for answers for the need of our State, may wisdom and knowledge be granted to each one and may Your will be done in each heart and life. We ask for Your blessing in the name of Jesus Christ our Lord. Amen.

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

LEAVES OF ABSENCE

Senator Ellis was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Green was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Whitmire was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Glasgow was granted leave of absence for today on account of illness on motion of Senator Brooks.

**BILL REMOVED FROM LOCAL AND UNCONTESTED
BILLS CALENDAR**

<u>Number</u>	<u>Senators Removing</u>
H.B. 1128	Henderson and Haley

**CONCLUSION OF SESSION FOR LOCAL AND
UNCONTESTED BILLS CALENDAR**

The Presiding Officer (Senator Haley in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 8:17 a.m. adjourned until 9:00 a.m. today.

**FIFTY-THIRD DAY
(Friday, April 26, 1991)**

The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejada, Truan, Turner, Zaffirini.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

A quorum was announced present.

The Reverend Albert Elam, First Baptist Church, Dale, offered the invocation as follows:

Our dear God, we come to You in the name of Jesus Christ our Lord, to ask for Your blessing for this day. And as these our leaders look for answers for the need of our State, may wisdom and knowledge be granted to each one and may Your will be done in each heart and life. We ask for Your blessing in the name of Jesus Christ our Lord. Amen.

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

LEAVES OF ABSENCE

Senator Ellis was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Green was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Whitmire was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Glasgow was granted leave of absence for today on account of illness on motion of Senator Brooks.

Senator Krier was granted leave of absence for today on account of important business on motion of Senator Brooks.

CO-AUTHORS OF SENATE BILL 1184

On motion of Senator Zaffirini and by unanimous consent, Senators Armbrister, Lucio, Tejada, Barrientos, Dickson and Rosson will be shown as Co-authors of **S.B. 1184**.

CO-AUTHORS OF SENATE BILL 1392

On motion of Senator Zaffirini and by unanimous consent, Senators Dickson and Rosson will be shown as Co-authors of **S.B. 1392**.

CO-AUTHORS OF SENATE BILL 1425

On motion of Senator Zaffirini and by unanimous consent, Senators Dickson and Rosson will be shown as Co-authors of **S.B. 1425**.

CO-AUTHORS OF SENATE JOINT RESOLUTION 39

On motion of Senator Zaffirini and by unanimous consent, Senators Dickson and Rosson will be shown as Co-authors of **S.J.R. 39**.

CAPITOL PHYSICIAN

Senator Carriker, on behalf of Senator Glasgow, was recognized and presented Dr. Brett Mitchell of Breckenridge.

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

PERMISSION TO INTRODUCE BILLS

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

S.B. 1548	S.B. 1552
S.B. 1549	S.B. 1553
S.B. 1550	S.B. 1554
S.B. 1551	

The motion prevailed by the following vote: Yeas 23, Nays 0.

Absent: Harris of Dallas, Henderson, Johnson.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

SENATE BILL 1453 REREFERRED

On motion of Senator Brooks and by unanimous consent, **S.B. 1453** was withdrawn from the Committee on State Affairs and rereferred to the Committee on Health and Human Services.

REPORTS OF STANDING COMMITTEES

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

S.B. 972

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

C.S.H.B. 675

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

C.S.S.B. 926

HOUSE BILLS ON FIRST READING

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

H.B. 633, To Committee on Economic Development.

H.B. 651, To Committee on Finance.

H.B. 734, To Committee on Intergovernmental Relations.

H.B. 1066, To Committee on Criminal Justice.

H.B. 1430, To Committee on Jurisprudence.

H.B. 2395, To Committee on State Affairs,
Subcommittee on Elections and Ethics.

HOUSE BILL 1079 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:

H.B. 1079, Relating to the authority of a county road district to refinance road district bonds by issuing alternative refunding bonds or certificates of assessment.

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

HOUSE BILL 1079 ON THIRD READING

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1079** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 0.

Absent: Harris of Dallas, Henderson, Johnson.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE

SENATE BILL 1169 ON SECOND READING

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

C.S.S.B. 1169, Relating to the regulation of consumer telephone calls; providing civil penalties and injunctive relief.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Amend **C.S.S.B. 1169** by adding a new Section 3 on page 3, line 25, and renumbering subsequent sections, as follows:

Section 3. Notwithstanding the authority granted by this Act, no state general revenue may be appropriated for costs related to the implementation of this Act during the fiscal biennium beginning on September 1, 1991.

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

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1169 ON THIRD READING**

Senator Leedom moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1169** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 0.

Absent: Harris of Dallas, Henderson, Johnson.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

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

SENATE BILL 713 ON SECOND READING

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

S.B. 713, Relating to interest on delinquent ad valorem taxes.

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

SENATE BILL 713 ON THIRD READING

Senator Sims moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 713** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 0.

Absent: Harris of Dallas, Johnson.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 24, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 714 ON SECOND READING**

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

C.S.S.B. 714, Relating to ad valorem taxes delinquent for more than the limitation period.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 714 ON THIRD READING**

Senator Sims moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 714 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Harris of Dallas.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

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

SENATE BILL 1283 ON SECOND READING

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

S.B. 1283, Relating to the confidentiality of a disciplinary order affecting the license of a professional.

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

SENATE BILL 1283 ON THIRD READING

Senator Rosson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 1283** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Harris of Dallas.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

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

SENATE BILL 887 ON SECOND READING

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

S.B. 887, Relating to certain student rentals, fees, and other charges collected by public institutions of higher education.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Amend **S.B. 887** by adding the following Section 3 and renumbering subsequent sections accordingly:

Section 3. Chapter 54, Education Code, is amended by adding Section 54.537 as follows:

Sec. 54.537. FEES FOR STUDENT SERVICES BUILDING: THE UNIVERSITY OF TEXAS AT AUSTIN. (a) The board of regents of The University of Texas System may charge each student enrolled at The University of

Texas at Austin a fee not to exceed \$1.10 per registered semester hour. The fee may be used only for financing the construction, repair, maintenance, renovation, improvement, or replacement of a student services building at the university.

(b) The university shall collect the student services building fee imposed under this section and deposit the money collected into an account to be known as the student services building account. The money collected and placed in the account shall be used only for the purpose of financing the construction, repair, maintenance, renovation, improvement, or replacement of a student services building and may be pledged for the payment of obligations issued for those purposes.

(c) A fee may not be imposed under this section until the semester in which a student services building will be available for use.

(d) The student services building fee imposed under this section shall not be counted in determining the maximum student services fee which may be charged to the students of The University of Texas at Austin under this subchapter.

(e) The powers granted to the board of regents under this section are cumulative of all other powers granted to that board.

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

RECORD OF VOTE

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

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

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

SENATE BILL 887 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 887 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Harris of Dallas.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 0. (Same as previous roll call)

SENATE BILL 791 ON SECOND READING

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

S.B. 791, Relating to the authority of a sheriff to require certain defendants convicted of felonies and awaiting transfer to the institutional division of the Texas Department of Criminal Justice to participate in work programs operated by the sheriff.

The bill was read second time.

Senator Tejeda offered the following amendment to the bill:

Amend **S.B. 791**, Committee Printing, in Section 1 of the bill, in Article 43.102(a), Code of Criminal Procedure, as added by that section, as follows:

- (1) Strike "The sheriff may require" and substitute "The sheriff may offer".
- (2) Between "Justice" and "to", insert "the opportunity".

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

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

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

SENATE BILL 791 ON THIRD READING

Senator Tejeda moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 791 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Harris of Dallas.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 0. (Same as previous roll call)

HOUSE BILL 1050 ON SECOND READING

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

H.B. 1050, Relating to the sealing or destruction of files and records of certain persons adjudicated as having engaged in delinquent conduct.

The bill was read second time.

Senator Harris of Tarrant offered the following committee amendment to the bill:

Amend **H.B. 1050**, SECTION 1, Section 51.16(1), by inserting "or a felony of the first degree" following the words "capital offense" where they appear on page 2, line 12.

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

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

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

HOUSE BILL 1050 ON THIRD READING

Senator Harris of Tarrant moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **H.B. 1050** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Harris of Dallas.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1517 ON SECOND READING**

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

C.S.S.B. 1517, Relating to requiring immunization of certain students and access to certain records in case of an emergency or epidemic.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1517 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1517** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Harris of Dallas.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

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

SENATE BILL 1457 ON SECOND READING

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

S.B. 1457, Relating to allowing entities formed as a trust to be eligible members and subscribers of a Cooperative formed under the Cooperative Association Act.

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

SENATE BILL 1457 ON THIRD READING

Senator Tejeda moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 1457** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Harris of Dallas.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 0. (Same as previous roll call)

SENATE BILL 659 ON SECOND READING

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

S.B. 659, Relating to authorizing an increase in the student recreational sports fee at institutions within The Texas A&M University System.

The bill was read second time.

(Senator Haley in Chair)

Senator Turner offered the following amendment to the bill:

Amend **S.B. 659** by striking SECTION 1 and substituting the following:

SECTION 1. Section 54.534, Education Code, as added by Chapter 871, Acts of the 71st Legislature, Regular Session, 1989, is amended by amending Subsection (a) and adding Subsections (f) and (g) to read as follows:

(a) If approved by student vote at an institution, the Board of Regents of The Texas A&M University System may charge students at such institutions within The Texas A&M University System a recreational sports fee not to exceed \$50 (~~\$35~~) a semester or 12-week summer session or \$25 (~~\$17.50~~) a six-week summer session. The fee may be used only for financing, constructing, operating, maintaining, and improving new and existing recreational sports facilities and programs at the designated university.

(f) The board may permit a person who is not enrolled at a system institution to use a facility paid for by student recreational sports fees if:

(1) the person's usage does not materially interfere with student demand or usage;

(2) the person is charged a fee that is not less than the student fee and is not less than the direct and indirect cost to the institution of providing for the person's usage; and

(3) the person's usage does not increase materially the potential liability of the institution.

(g) The president of each institution in the system shall establish a formal system for student input with respect to matters of construction and operation of a facility or program financed by a student recreational sports fee.

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

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

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

SENATE BILL 659 ON THIRD READING

Senator Turner moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 659** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Harris of Dallas.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 622 ON SECOND READING**

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

C.S.S.B. 622, Relating to the issuance of certain notes by public junior college districts or regional college districts.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 622 ON THIRD READING**

Senator Johnson moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 622** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Harris of Dallas.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1000 ON SECOND READING**

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

C.S.S.B. 1000, Relating to student services fees at public institutions of higher education.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1000 ON THIRD READING**

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1000** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Harris of Dallas.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 0. (Same as previous roll call)

SENATE BILL 200 ON SECOND READING

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

S.B. 200, Relating to the liability of a person who manufactures or delivers certain illegal substances for damages arising from the use of the substance.

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

SENATE BILL 200 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **S.B. 200** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

(Senator Armbrister in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 335 ON SECOND READING**

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

C.S.S.B. 335, Relating to the waiver of penalty and interest on delinquent property taxes.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 335 ON THIRD READING**

Senator Turner moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that **C.S.S.B. 335** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 692 ON SECOND READING**

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

C.S.S.B. 692, Relating to the Texas Guaranteed Student Loan Corporation.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 692 ON THIRD READING**

Senator Haley moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 692 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 694 ON SECOND READING**

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

C.S.S.B. 694, Relating to the regulation of certain persons in the business of cashing checks; providing penalties.

There was objection.

Senator Carriker then moved to suspend the regular order of business and take up **C.S.S.B. 694** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 1.

Nays: Sibley.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

The bill was read second time.

Senator Carriker offered the following amendment to the bill:

Amend **C.S.S.B. 694** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. DEFINITIONS. In this Act:

(1) "Bank" has the meaning assigned by Article 2, Chapter I, The Texas Banking Code (Article 342-102, Vernon's Texas Civil Statutes).

(2) "Check" includes a draft, money order, or other instrument for the transmission or payment of money.

(3) "Commission" means The Finance Commission of Texas.

(4) "Commissioner" means the Banking Commissioner of The Banking Department of Texas.

(5) "Consideration" means the amount paid by a holder of a check for cashing the check. The term does not include the amount equal to the cash price paid for goods or services and applicable federal, state, and local taxes on the sale if cashing the check is incidental to the purchase of those goods or services.

(6) "Department" means the Banking Department of Texas.

(7) "Federal savings and loan association" has the meaning assigned by Article 2, Chapter I, The Texas Banking Code (Article 342-102, Vernon's Texas Civil Statutes).

(8) "Licensee" means a person holding a license issued under this Act.

(9) "Owner" means a person who owns, controls, or otherwise has claim to 10 percent or more of the net income of a business.

(10) "Person" means an individual, corporation, organization, business trust, estate, trust, partnership, association, or any other legal entity. The

term does not include the government of the United States or this state or any political subdivision of this state.

(11) "Principal" means an owner, an officer or director of a corporation, a general partner of a partnership, a trustee of a trust, or another individual with similar supervisory functions with respect to any person.

(12) "State savings and loan association" has the meaning assigned by Article 2, Chapter I, The Texas Banking Code (Article 342-102, Vernon's Texas Civil Statutes).

SECTION 2. LICENSE REQUIRED. A person may not engage in the business of cashing checks for consideration unless the person holds a license issued under this Act for the location at which the business is conducted.

SECTION 3. ELIGIBILITY. A person is not eligible for a license under this Act if, during the previous 10 years, the person or any principal of the person has been convicted of a felony under the laws of this state, any other state, or the United States, regardless of whether the conviction was a nonadjudicated conviction or whether the punishment received was a suspended sentence or probation.

SECTION 4. APPLICATION. (a) An applicant for a license under this Act must file a written application with the department on a form prescribed by the commissioner. An application must be made under oath and include:

(1) the applicant's agreement to comply with the currency reporting and recordkeeping requirements imposed on a domestic financial institution by 31 U.S.C. Section 5313, 31 C.F.R. Part 103, and any other applicable state or federal law;

(2) evidence, in a form satisfactory to the commissioner, that the applicant has liquid assets or a line of credit or other commitment from a bank, federal savings and loan association, state savings and loan association, credit union, or other financial institution in an amount of not less than \$10,000 for each location that the applicant proposes to operate, except that an applicant is not required to provide evidence of assets or credit under this subdivision the aggregate amount of which exceeds \$50,000; and

(3) any other data, financial statements, or other pertinent information as may be required by rule of the commissioner.

(b) An application must be accompanied by an application fee. The application fee is nonrefundable, but if a license is issued the payment of the application fee satisfies payment of the license fee for the first year of the license.

(c) Except as provided by Subsection (d) of this section, a separate application must be filed and a separate license issued for each location at which a check cashing business is to be conducted.

(d) If a person intends to operate a check cashing business at five or more locations in this state, the person may submit one application for all the locations, pay one application fee, and if in compliance with the requirements of this Act, obtain a license that is valid for all locations.

(e) An application shall be acted on within 30 days of the receipt of a completed application unless the applicant consents otherwise.

SECTION 5. INVESTIGATIONS; ISSUANCE OF LICENSE. (a) The department shall investigate an applicant and each owner and principal of the applicant to determine the financial responsibility, experience, character, and general fitness of the applicant. The commissioner shall issue a license under this Act to an eligible applicant if the commissioner finds that the financial responsibility, financial condition, business experience, character, and general fitness of the applicant are such that issuance of a license under this Act is in the public interest, provided that this provision shall not be construed so as to discourage competition among potential licensees in the same geographical area.

(b) A licensee shall prominently display the license in a conspicuous place at the location for which the license is issued. If one license is issued for five or more locations, the licensee shall prominently display a copy of the license at each location for which the license is issued.

(c) A license issued under this Act may not be transferred or assigned.

SECTION 6. ACCESS TO CRIMINAL HISTORY INFORMATION. (a) The commissioner may obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency to investigate:

- (1) an applicant for a license under this Act; or
- (2) a principal of an applicant for a license under this Act.

(b) The commissioner may refuse to grant a license or may suspend or revoke a license if the applicant, licensee, or any principal of the applicant or licensee fails to provide a complete set of fingerprints and a recent photograph on request.

(c) All criminal history record information received by the commissioner is privileged, confidential information for the exclusive use of the commissioner, the department, and the commission. Except as provided by Subsection (d) of this section, the information may not be released or otherwise disclosed to any other person or agency.

(d) The commissioner may not provide a person being investigated under this section with a copy of the person's criminal history record obtained under Subsection (a) of this section. This subsection does not prevent the commissioner from disclosing to the person the dates and places of arrests, offenses, and dispositions contained in the criminal history records.

(e) The commissioner shall adopt rules to govern the custody and use of information obtained under this section.

SECTION 7. BOND. (a) The commissioner may not issue a license until the applicant files a bond executed by a corporate surety licensed to do business in this state or an equivalent substitute approved by the commissioner.

(b) The commissioner shall determine the amount of the bond in accordance with this subsection. The amount of the bond, or a commissioner-approved equivalent, must be at least \$5,000 for each location for which an application is filed. An applicant is not required to file bonds, or a commissioner-approved equivalent, under this section the aggregate amount of which exceeds \$50,000.

(c) The bond must be payable to the department and is for the benefit of:

- (1) the department for the payment of civil penalties incurred by the licensee under this Act; and
- (2) any creditors of the licensee for liability incurred in connection with the rendering of services authorized by this Act.

SECTION 8. TERM OF LICENSE; RENEWAL. (a) A license issued under this Act is valid for two years unless earlier surrendered, suspended, or revoked.

(b) A licensee may renew a license by paying a license renewal fee and submitting a renewal application in the form required by the commissioner.

SECTION 9. EXAMINATION. Each licensee is subject to a periodic examination of the licensee's business records by the commissioner at the sole cost and expense of the licensee. The commissioner may examine all books, records, papers, or other objects that the commissioner determines are necessary for conducting a complete examination and may also examine under oath any principal or employee associated with a licensee. If a licensee or principal or employee of a licensee refuses to submit to or cooperate with an examination under this section, or subject to Subsection (b) of Section 11 of this Act the commissioner may suspend the licensee's license until the examination is completed to the commissioner's satisfaction.

SECTION 10. FEES. The commissioner by rule shall set the license application fee, license fee, license renewal fee, examination fee, and any other fee

authorized under this Act in amounts reasonable and necessary to defray the cost of administering this Act.

SECTION 11. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE. (a) The commissioner may deny, suspend, or revoke a license issued under this Act if after notice and hearing the commissioner finds that:

(1) the licensee has violated this Act or any rule adopted under this Act; or

(2) the licensee or a principal of the licensee has been convicted of a felony under the laws of this state, any other state, or the United States, regardless of whether the punishment received was a suspended sentence or probation.

(b) A license issued under this Act may not be revoked or suspended except after a hearing as provided by this section. The commissioner shall give written notice of the time and place of the hearing to the licensee not later than the 21st day before the hearing date by registered or certified mail addressed to the principal place of business of the licensee. An order of the commissioner denying, suspending, or revoking a license must state the grounds on which it is based and is not effective until the 21st day after the date written notice is sent by registered or certified mail addressed to the principal place of business of the applicant or licensee, unless the commissioner finds that an imminent peril to public health, safety, or welfare exists, in which event the commissioner may make the order effective immediately.

(c) The denial, suspension, or revocation of a license by the commissioner and the appeal from that action are governed by the procedures for a contested case hearing under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 12. RULE MAKING. The commission shall adopt rules necessary to implement this Act, including rules regarding the procedures for issuance, renewal, denial, suspension, and revocation of a license and the recordkeeping and reporting requirements of a licensee.

SECTION 13. OTHER REQUIREMENTS. (a) At each location licensed under this Act, the licensee shall conspicuously post and at all times display a notice stating the charges for cashing checks.

(b) A licensee shall keep and use in its business the books, accounts, and records that the commissioner by rule requires for the enforcement of this Act. A licensee shall preserve its books, accounts, and records for at least two years.

(c) Before a licensee may deposit with any bank or financial institution a check cashed by the licensee, the check must be endorsed with the actual name under which the licensee is doing business.

(d) Except as provided by Subsection (e) of this section, a licensee may not receive any check with payment deferred pending collection. Payment shall be made immediately in cash for every check accepted by the licensee.

(e) A licensee may accept a check for collection with payment deferred if the licensee has posted and maintains a license bond in the same manner as prescribed for check sales licensees under The Sale of Checks Act (Article 489d, Vernon's Texas Civil Statutes). The amount of the surety bond required by this subsection must be \$10,000 for each location operated by the licensee, except that a licensee is not required to file bonds under this section the aggregate amount of which exceeds \$50,000. The bond must be payable to the department and is for the benefit of the department for the payment of civil penalties incurred by the licensee for a violation of this subsection and the benefit of any creditors of the licensee for liability incurred in connection with the acceptance of a check with payment deferred pending collection. This bond is in addition to the bond required by Section 7 of this Act. On collection of the check payment shall be made immediately in cash for a check accepted by the licensee with payment deferred pending collection.

(f) A licensee may not indicate through advertising, signs, letterhead, or otherwise that a check may be cashed without identification of the bearer of the check. Any person seeking to cash a check is required to submit reasonable identification, as required by rule adopted by the commissioner. This subsection does not prohibit a licensee from cashing a check simultaneously with the verification and establishment of the identity of the bearer by means other than the presentation of identification.

SECTION 14. RESTRICTIONS ON CONSIDERATION. A licensee may not charge:

(1) for cashing a check other than a check to which Subdivision (2) or (3) of this section applies, a fee in excess of five percent of the face amount of the check or \$5, whichever is greater;

(2) for cashing a check that is a payment of a state public assistance or federal social security benefit and that is payable to the bearer, a fee in excess of three percent of the face amount of the check or \$3, whichever is greater; or

(3) for cashing a personal check, a fee in excess of five percent of the face amount of the check or \$5, whichever is greater.

SECTION 15. EXEMPTIONS. (a) This Act does not apply to:

(1) a state or national bank or state or federal savings and loan association, savings bank, or credit union;

(2) a person that does not charge or collect consideration in excess of \$1 for cashing a check incidental to the retail sale of goods or services.

(b) A person whose primary business is the retail sale of goods or services and for whom check cashing transactions are incidental to the person's primary business is exempted from this Act if:

(1) the person's gross receipts realized from charges for cashing checks does not exceed 10 percent of the person's total gross income from the retail sale of goods or services; or

(2) the person's gross receipts realized from fees for cashing checks is less than \$12,000 per year.

(c) A person licensed by the commissioner under The Sale of Checks Act (Article 489d, Vernon's Texas Civil Statutes) is exempt from the licensure requirements of this Act. The person is subject to Sections 9, 13, 14, 16, and 17 of this Act. The exemption provided by this subsection does not extend to the agents of a person exempted under this subsection.

SECTION 16. OFFENSE. (a) A person commits an offense if the person intentionally violates this Act.

(b) An offense under this section is a Class C misdemeanor.

SECTION 17. CIVIL PENALTY. If, after notice and a hearing, the commissioner finds that a person has violated this Act, a rule adopted under this Act, or an order of the commissioner issued under this Act, the commissioner may order the person to pay to the commissioner a civil penalty in an amount specified by the commissioner, not to exceed \$500 for each violation or, in the case of a continuing violation, \$500 for each day that the violation continues. A civil penalty assessed under this section may be collected from the bond required under Section 7 or Section 13 of this Act.

SECTION 18. COOPERATION WITH OTHER AGENCIES. (a) The commissioner shall cooperate with federal and state agencies in discharging the commissioner's powers and duties under this Act. The commissioner may:

(1) arrange for the exchange of information among government officials concerning the regulation of a check cashing business; and

(2) cooperate in and coordinate training programs concerning the regulation of check cashing businesses.

(b) The commissioner may request the assistance of the Department of Public Safety in the enforcement of this Act.

SECTION 19. EFFECTIVE DATE; IMPLEMENTATION OF ACT. This Act takes effect September 1, 1991, except that Section 2 of this Act, to the extent it prohibits engaging in the business of cashing checks without a license, takes effect January 1, 1992.

SECTION 20. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 694 ON THIRD READING**

Senator Carriker moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 694 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

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

RECORD OF VOTES

Senators Harris of Tarrant and Montford asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE BILL 364 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:

S.B. 364, Relating to a frivolous lawsuit brought against a person who has reported child abuse or participated in a judicial proceeding resulting from a report of child abuse.

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

SENATE BILL 364 ON THIRD READING

Senator Lucio moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 364 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Ellis, Glasgow, Green, Krier, Whitmire.

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

CONGRATULATORY RESOLUTIONS

H.C.R. 6 - (Leedom): Designating July 27, 1991, as Korean War Veterans' Day to honor the American veterans who fought in the Korean War.

S.R. 610 - By Barrientos: Recognizing Bence Donn Piper, who will receive the Zeta's Minority Youth Award in a ceremony to be held on April 28, 1991, at Wesley United Methodist Church.

S.R. 611 - By Armbrister: Extending congratulations to the City of Refugio and its notable citizens on the grand occasion of the 55th anniversary of the Refugio City Hall.

S.R. 622 - By Rosson: Proclaiming April 28, 1991, as a day of celebration and commemoration of the true first thanksgiving in the United States.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 9:57 a.m. adjourned until 11:00 a.m. Monday, April 29, 1991.

FIFTY-FOURTH DAY (Monday, April 29, 1991)

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

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejada, Truan, Turner, Whitmire, Zaffirini.

Absent-excused: Johnson.

A quorum was announced present.

Pastor James Linderman, Christ Lutheran Church, Austin, offered the invocation as follows:

Almighty God, You have given us this good land of Texas as our heritage. Grant that we may remember Your generosity and constantly do Your will. Bless our land with honest industry, truthful education and an honorable way of life. Save us from violence, discord and confusion, from pride and arrogance, and from every evil course of action. Make us who came from many nations with many different languages a united people. Defend our liberties and give those whom we have entrusted with the authority of government the spirit of wisdom, that there may be justice, prosperity and peace in our land. When times are prosperous, let our hearts be thankful, and in troubled times do not let our trust in You fail. Bless the efforts of this Senate as it begins its labors and graciously regard those who have been set in positions of authority among us, that they may be guided by Your spirit, be high in purpose, wise in counsel, firm in good resolution and unwavering in duty, and that under them we may be governed quietly and peaceably in Your name. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of Friday, April 26, 1991, was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Johnson was granted leave of absence for today on account of important business on motion of Senator Brooks.