The house met at 10:30 a.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 159).

Present — Mr. Speaker; Agnich; Armbrister; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Cain; Carriker; Cary; Cavazos; Ceverha; Clark; Colbert; Collazo; Connelly; Coody; Craddick; Crockett; Danburg; DeLay; Denton; Eckels; Edwards; Emmett; English; Evans, C.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistwcidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hanaa; Harrison, D.; Harrison, W.; Heflin; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Meser; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Turner; Uher; Valles; Vowell; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

Absent, Excused — Criss; Eikenburg; Evans, L.; Hury; Price; Tow.

Absent — Arnold; Bush; Clemons; Davis; Delco; Hammond; Hernandez; Waldrop.

(Bush, Hammond, Arnold, Clemons, Davis, Hernandez, and Waldrop now present)

LEAVES OF ABSENCE GRANTED

On motion of Representative G. Hill, and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

RULES SUSPENDED

Representative G. Hill moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local and consent calendars which were considered on the previous legislative day.

The motion prevailed without objection.

LOCAL AND CONSENT BILLS CALENDAR ON THIRD READING

The following bills which were considered on second reading on the previous legislative day on the local and consent bills calendar were laid before the house, read third time, and passed by a voice vote: (Members registering votes are shown following bill number)
HB 359 (Hollowell - no)
HB 1031
HB 1250
HB 1254
HB 401 (Green and Fox - no)
HB 430
HB 553 (Green - no)
HB 618 (Fox - no)
HB 724
HB 954 (Green and Fox - no)
HB 1212
HB 1368
HB 1725
HB 1845

The following bills which were considered on second reading on the previous legislative day on the local and consent bills calendar were laid before the house, read third time, and passed by (Record 160): (Members registering votes and the results of the vote are shown following bill number) 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Agnich; Armerbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga(C); Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Coody; Craddock; Crockett; Danburg; Davis; DeLay; Denton; Eckels; Edwards; Emmett; Evans, C.; Fennel; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistwelt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hefflin; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Jackson; Jones; Keller; Kemp; Khoury; Kubik; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnak; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalski; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Turner; Uber; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

Present, not voting — Mr. Speaker.

Absent, Excused — Criss; Eikenburg; Evans, L.; Hury; Price; Tow.

Absent — Delco; English; Hernandez.

SB 486 (140-0-10)
SB 508 (140-0-10)
HB 697 (Fox - no) (139-1-10)
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HB 1011 (140-0-10)
HB 1243 (140-0-10)
HB 1440 (140-0-10)
HB 1441 (140-0-10)
SB 139 (140-0-10)
SB 164 (140-0-10)
SB 210 (140-0-10)
SB 211 (140-0-10)
SB 235 (Ceverha and Jackson - no) (138-2-10)
SB 347 (140-0-10)
SB 421 (140-0-10)
SB 422 (Green - no) (139-1-10)
HB 455 (Heflin - no) (139-1-10)
HB 484 (Green and Fox - no) (138-2-10)
HB 501 (Toomey, Khoury, Fox, Denton, and Messer - no) (135-5-10)
HB 524 (140-0-10)
HB 970 (140-0-10)
HB 1013 (140-0-10)
HB 1111 (140-0-10)
HB 1341 (Green, Toomey, and Fox - no) (137-3-10)

On motion of Representative G. Hill, and by unanimous consent, the captions of all senate bills passed on the local and consent calendars, were ordered amended to conform with the body of the bills.

HB 2362 - PERMISSION TO INTRODUCE

Representative Stiles moved to suspend the constitutional rule for permission to introduce and have placed on first reading HB 2362.

The motion prevailed by (Record 161): 136 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga(C); Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Ceverha; Clark; Clemmons; Colbert; Collazo; Connelly; Coody; Craddick; Crockett; Danburg; Davis; DeLay; Denton; Eckels; Edwards; Emmett; English; Evans, C.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Hudson, D.; Hudson, S.; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Ragsdale; Rangel; Robinson; Robnett; Rudd;
Russell; Salinas; Saunders; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Turner; Uher; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Word; Wright.

Nay — Agnich.

Present, not voting — Mr. Speaker.

Absent, Excused — Criss; Eikenburg; Evans, L.; Hury; Price; Tow.

Absent — Delco; Granoff; Horn; Patrick; Schlueter; Wolens.

HB 2363 - PERMISSION TO INTRODUCE

Representative Presnal moved to suspend the constitutional rule for permission to introduce and have placed on first reading HB 2363.

The motion prevailed by (Record 162): 135 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga(C); Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carrillo; McCuadros; Ceverha; Clark; Clemens; Colbert; Collazo; Connally; Coody; Craddick; Crockett; Danburg; Davis; Denton; Eckels; Edwards; Emmett; English; Evans, C.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Green; Grisham; Hackney; Hall; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hellin; Hernandez; Hightower; Hilt; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Meser; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Turner; Uher; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Word; Wright.

Nay — Agnich.

Present, not voting — Mr. Speaker.

Absent, Excused — Criss; Eikenburg; Evans, L.; Hury; Price; Tow.

Absent — DeLay; Delco; Geistweidt; Granoff; Patrick; Schlueter; Wolens.

SJR 13 ON SECOND READING

(Rudd - House Sponsor)

The chair laid before the house on its second reading and passage to third reading, the complete committee substitute for SJR 13.

CSSJR 13

A JOINT RESOLUTION

Proposing a constitutional amendment to establish the Board of Pardons and Paroles as a statutory agency and to give the board the power to revoke parole.

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

SECTION 1. That Article IV, Section 11, of the Texas Constitution be amended to read as follows:
Sec. 11. The Legislature shall by law establish a Board of Pardons and Paroles and shall require it to keep record of its actions and the reasons for its actions. The Legislature shall have authority to enact parole laws. [There is hereby created a Board of Pardons and Paroles, to be composed of three members, who shall have been resident citizens of the State of Texas for a period of not less than two years immediately preceding such appointment, each of whom shall hold office for a term of six years; provided that of the members of the first board appointed, one shall serve for two years, one for four years and one for six years from the first day of February, 1937, and they shall cast lots for their respective terms. One member of said board shall be appointed by the Governor, one member by the Chief Justice of the Supreme Court of the State of Texas, and one member by the presiding Justice of the Court of Criminal Appeals; the appointments of all members of said Board shall be made with the advice and consent of two-thirds of the Senate present; each vacancy shall be filled by the respective appointing power that theretofore made the appointment to such position and the appointive powers shall have the authority to make recess appointments until the convening of the Senate.]

In all criminal cases, except treason and impeachment, the Governor shall have power, after conviction, on the written signed recommendation and advice of the Board of Pardons and Paroles, or a majority thereof, to grant reprieves and commutations of punishment and pardons; and under such rules as the Legislature may prescribe, and upon the written recommendation and advice of a majority of the Board of Pardons and Paroles, he shall have the power to remit fines and forfeitures. The Governor shall have the power to grant one reiprieve in any capital case for a period not to exceed thirty (30) days; and he shall have power to revoke [paroles and] conditional pardons. With the advice and consent of the Legislature, he may grant reprieves, commutations of punishment and pardons in cases of treason.

[The Legislature shall have power to regulate procedure before the Board of Pardons and Paroles and shall require it to keep record of its actions and the reasons therefore; and shall have authority to enact parole-laws.]

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 8, 1983. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to change the Board of Pardons and Paroles from a constitutional agency to a statutory agency and to give the board the power to revoke paroles."

A record vote was requested.

The resolution was read second time and was adopted by (Record 163): 124 Yea's, 14 Nays, 1 Present, not voting.

Yeas - Agnew; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga(C); Bommer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Clark; Colbert; Collazo; Connelly; Coody; Crockett; Danburg; Davis; Denton; Eckels; Edwards; Emmett; English; Evans, C.; Finnell; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Horn; Hudson, D.; Hudson, S.; Jackson; Jones; Keller; Kemp; Khoury; Laney; Lee, D.; Lee, E. F.; Leonard, Luna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Ragland; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Shaw; Shea; Short; Simpson; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Toomey; Turner;
SR 13 was ordered amended to conform to the body of the bill.

STATEMENT BY REPRESENTATIVE KUEMPEL

On SJR 13, I inadvertently voted no when I wanted to vote yes.

SB 86 ON THIRD READING

(Emmett - House Sponsor)

The bill was read third time and was passed. (Salinas and Rudd recorded voting no)

SB 186 ON SECOND READING

(G. Hill - House Sponsor)

The bill was read second time and was passed to third reading.

SB 186 ON THIRD READING

Representative G. Hill moved that the constitutional rule requiring bills to be read on three several days be suspended and that SB 186 be placed on its third reading and final passage.

A record vote was requested.

The motion prevailed by (Record 164): 125 Yeas, 8 Nays, 2 Present, not voting.

Yeas — Armbrister; Barrientos; Barton, B.; Barton, E.; Berlanga(C); Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Canniker; Cary; Cavazos; Ceverha; Clark; Colbert; Collazo; Connell; Coody; Craddick; Crockett; Davis; Delany; Denton; Eekels; Edwards; English; Evans, C.; Finnell; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Hudson, D.; Hudson, S.; Jackson; Jones;
Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Saunders; Schoolcraft; Shaw; Short; Simpson; Smith, A.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Turner; Valles; Vowell; Waldrop; Wallace; Watson; Wieting; Willis; Wilson; Word; Wright.

Nays — Agnich; Fox; Heflin; Horn; Salinas; Shea; Smith, C.; Uher.

Present, not voting — Mr. Speaker; Danburg.

Absent, Excused — Criss; Eikenburg; Evans, L.; Hury; Price; Tow.

Absent — Arnold; Clemens; Delco; Emmett; Granoff; Schlueter; Smith, T.; Whaley; Wolens.

The chair then laid SB 186 before the house on third reading and final passage.

A record vote was requested.

The bill was read third time and was passed by (Record 165): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Blanton; Borner; Buchanan; Burnett, Bush; Cain; Carrker; Cary; Cavazos; Ceverha; Clark; Clemens; Colbert; Collazo; Connell; Coody; Craddock; Crockett; Danburg; Davis; Delay; Denton; Eckels; Edwards; Emmett; English; Evans, C.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweedt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Toomey; Turner; Uher; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Word; Wright.

Present, not voting — Mr. Speaker; Berlanga(C).

Absent, Excused — Criss; Eikenburg; Evans, L.; Hury; Price; Tow.

Absent — Delco; Thompson, S.; Wolens.

The chair stated that SB 186 was passed subject to the provisions of Article III, Section 49a, of the Constitution of Texas.

SB 165 ON SECOND READING
(Robnett - House Sponsor)

The chair laid before the house on its second reading and passage to third reading.

SB 165, A bill to be entitled An Act relating to regulation of dental health service corporations; amending Subsection (1), Section A, Chapter 162, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 1396-2.01, Vernon's Texas Civil Statutes).
The bill was read second time and was passed to third reading.

**SB 218 ON SECOND READING**
(C. Evans - House Sponsor)

The chair laid before the house on its second reading and passage to third reading.

**SB 218**, A bill to be entitled An Act relating to the effect of confinement in another penal institution on certain defendant's eligibility for parole and to certain duties of the Texas Department of Corrections and of the court and to certain powers and duties of the Board of Pardons and Paroles; amending Section 12 and Subsection (a), Section 15, Article 42.12, Code of Criminal Procedure, 1965, and amending Article 42.09, Code of Criminal Procedure, 1965, by adding Section 7.

The bill was read second time and was passed to third reading. (Hollowell and Clark recorded voting no)

**SB 275 ON SECOND READING**
(Wolens - House Sponsor)

The chair laid before the house on its second reading and passage to third reading.

**SB 275**, A bill to be entitled An Act relating to the authority of certain domestic insurance companies to reinsure risks involving defined aircraft and defined space equipment; amending the Insurance Code by adding Article 5.75-3 to Chapter 5 and by amending Article 3.54.

The bill was read second time and was passed to third reading.

(Speaker in the chair)

**HB 593 ON THIRD READING**

The speaker laid before the house on its third reading and final passage.

**HB 593**, A bill to be entitled An Act relating to the administration, powers, duties, and continuation of the Railroad Commission of Texas; providing penalties.

The bill was read third time.

Representative Peveto offered the following amendment to the bill:

Amend HB 593, Second Reading Engrossment, by striking Section 21 and substituting the following:

**SECTION 21.** Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 91 lb, Vernon's Texas Civil Statutes), is amended by adding Section 22c to read as follows:

Sec. 22c. The Railroad Commission in setting rates may consider as a factor in rate setting the disadvantage to Texas-produced products from competition from other products because of interstate commerce freight rates.

The amendment was adopted without objection. (Staniswalis recorded voting yes)

Representatives Hanna, Messer, and Simpson offered the following amendment to the bill:

Amend HB 593 3rd reading, Section 5b, page 19, line 5 (a) by striking the period after the word "processor" in the third sentence and adding the following: "and livestock to or from auction barns or feed lots to a farm, ranch, or feed lot."
The amendment was adopted without objection.

Representative Messer moved that consideration of HB 593 be postponed until 11:45 a.m. today.

The motion prevailed without objection.

**HB 1046 ON THIRD READING**

The speaker laid before the house on its third reading and final passage, HB 1046, A bill to be entitled An Act relating to authorized investments for a portion of the veterans land fund, the permanent university fund, the teacher retirement system, the employees retirement system, the Texas county and district statewide retirement system, and the Texas municipal statewide retirement system; and declaring an emergency.

The bill was read third time and was passed.

**HJR 59 ON SECOND READING**

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HJR 59.

**CSHJR 59**

A JOINT RESOLUTION proposing a constitutional amendment to authorize broadened investment authority for certain veteran and university funds.

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

SECTION 1. That Article III of the Texas Constitution be amended by adding Section 49-b-2, to read as follows:

Sec. 49-b-2. Notwithstanding other provisions of this Constitution, in the management of the moneys of the Veterans' Land Fund which are not immediately committed to the payment of principal and interest on bonds, the purchase of lands as provided in Section 49-b of this Article, or the payment of expenses as provided in Section 49-b of this Article, the Veterans' Land Board is authorized to acquire, exchange, sell, supervise, manage, and retain, through such procedures and subject to such restrictions as it may establish and in such amounts as it deems appropriate, every kind of investment which persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.

SECTION 2. That Article VII of the Texas Constitution be amended by adding Section 11b to read as follows:

Sec. 11b. Notwithstanding other provisions of this Constitution, in the management of the assets of the Permanent University Fund and other funds available for investment, the Board of Regents of The University of Texas System is authorized to acquire, exchange, sell, supervise, manage, and retain, through such procedures and subject to such restrictions as it may establish and in such amounts as it deems appropriate, every kind of investment which persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital.
SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 8, 1983. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment relating to the investment authority of the permanent university fund and a portion of the veterans land fund; providing the authority to invest in home mortgages and other investments."

CSHJR 59 was read second time.

Representative Edwards offered the following amendment to CSHJR 59:

Amend page 1, line 21, by striking the period and adding "except until the United Nations declares that South Africa is no longer in violation of the United Nations Charter, the board may not, after the effective date of this Act, invest funds under its control in business enterprises that conduct business in the Republic of South Africa; however, funds presently invested need not be reinvested or withdrawn."

Amend page 2, line 13, by striking the period and adding "except until the United Nations declares that South Africa is no longer in violation of the United Nations Charter, the board may not, after the effective date of this Act, invest funds under its control in business enterprises that conduct business in the Republic of South Africa; however, funds presently invested need not be reinvested or withdrawn."

Representative Schlueter moved to table the Edwards amendment.

A record vote was requested.

The motion to table prevailed by (Record 166): 79 Yeas, 51 Nays, 1 Present, not voting.

Yeas — Agnieh; Armbrister; Arnold; Berlanga; Blanton; Bomer; Buchanan; Burnett; Ceverha; Clark; Clemons; Connelly; Coody; Craddock; Crockett; Davis; DeLay; Eckels; Emmett; English; Evans, C.; Finnell; Fox; Garcia, M.; Gavin; Geistweidt; Gibson, J.; Grisham; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Heflin; Hightower; Hilbert; Hill, P.; Hollowell; Horn; Jones; Keller; Khouy; Kubiak; Kuempel; Laney; Lee, D.; Leonard; McKenna; McWilliams; Mankins; Messer; Millsap; Patrick; Pennington; Pierce; Polk; Presnal; Robnett; Rudd; Russell; Saunders; Schoelcraft; Shea; Short; Simpson; Smith, A.; Smith, T.; Staniswalis; Stiles; Thompson, G.; Toomey; Turner; Vowell; Waldrop; Whaley; Wieting; Word.

Nays — Barrientos; Barton, B.; Barton, E.; Bush; Cain; Carriker; Cavazos; Colbert; Collazo; Danburg; Denton; Edwards; Gamez; Gandy; Garcia, A.; Gilley; Glossbrenner; Granoff; Hackney; Hill, G.; Hinojosa; Hudson, D.; Hudson, S.; Kemp; Lee, E. F.; Luna; Madla; Martinez, R.; Martinez, W.; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Polumbo; Ragsdale; Rangel; Robinson; Salinas; Shaw; Smith, C.; Sutton; Tejeda; Thompson, S.; Valles; Wallace; Watson; Wilks; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Criss; Eikenburg; Evans, L.; Hury; Price; Tow.

Absent — Cary; Delco; Gibson, B.; Green; Harrison, W.; Hernandez; Hill, A.; Jackson; Peveto; Schlueter; Uher; Wolens; Wright.
STATEMENT BY REPRESENTATIVE BERLANGA

I was shown voting yes inadvertently when I wanted to be shown voting no.

Berlanga

A record vote was requested.

CSHJR 59 was adopted by (Record 167): 130 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Cary; Cavazos; Ceverha; Clark; Clemmons; Colbert; Collazo; Connolly; Coody; Craddock; Crockett; Danburg; Davis; DeLay; Denton; Eckles; Edwards; Emmett; English; Evans, C.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hightower; Hibbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Jackson; Jones; Keller; Kemp; Khourey; Kubial; Knempel; Laney; Lee, D.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, T.; Stanislawis; Stiles; Sutton; Tejeda; Thompson, S.; Toomey; Turner; Uher; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word.

Nays — Barrientos; Barton, B.; Moreno, P.; Smith, C.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Criss; Eikenburg; Evans, L.; Hury; Price; Tow.

Absent — Carriker; Delco; Gibson, B.; Hernandez; Lee, E. F.; Schlueeter; Smith, A.; Thompson, G.; Wright.

HB 593 ON THIRD READING

The speaker laid before the house, as postponed business, on its final passage, HB 593.

The bill was read third time earlier today and was postponed until this time.

Representative Messer offered the following amendment to the bill:

Amend HB 593 by striking Section 19 of the bill and substituting the following appropriately numbered sections:

SECTION ____ The Gas Utility Regulatory Act is enacted to read as follows:

ARTICLE I. SHORT TITLE, LEGISLATIVE POLICY, AND DEFINITIONS

Sec. 1.01. SHORT TITLE. This Act may be referred to as the Gas Utility Regulatory Act.

Sec. 1.02. LEGISLATIVE POLICY AND PURPOSE. This Act is enacted to protect the public interest inherent in the rates and services of gas utilities. The legislature finds that gas utilities are by definition monopolies in the areas they serve; that therefore the normal forces of competition which operate to regulate prices in a free enterprise society do not operate; and that therefore utility rates, operations, and services are regulated by public agencies, with the objective that the regulation shall operate as a substitute for competition. The purpose of this Act is to establish a comprehensive regulatory system that is adequate to the task of regulating gas
utilities as defined by this Act, and to assure rates, operations, and services which are just and reasonable to the consumers and to the utilities.

Sec. 1.03. DEFINITIONS. In this Act:

1. "Person" includes natural persons, partnerships of two or more persons having a joint or common interest, mutual or cooperative associations, and corporations, as defined by this Act.

2. "Municipality" includes cities and incorporated villages or towns existing, created, or organized under the general, home-rule, or special laws of the state.

3. "Gas utility" or "utility" includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for transmitting or distributing combustible hydrocarbon natural or synthetic natural gas for sale or resale in a manner which is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act (15 U.S.C.A., Section 717, et seq.) provided that the production, gathering, transportation, or sale of natural gas or synthetic gas under Section 4, Article 6050, Revised Statutes, the distribution or sale of liquefied petroleum gas, and the transportation, delivery, or sale of natural gas for fuel for irrigation wells or any other direct use in agricultural activities is not included. The term "gas utility" or "utility" does not include any person or corporation not otherwise a gas utility that furnishes gas or gas service only to itself, its employees, or tenants as an incident of that employee service or tenancy, when the gas or gas service is not resold to or used by others.

4. "Rate" means every compensation, tariff, charge, fare, toll, rental, and classification, or any of them demanded, observed, charged, or collected whether directly or indirectly by any gas utility for any service, product, or commodity described in Subdivision (3) of this section, and any rules, regulations, practices, or contracts affecting any such compensation, tariff, charge, fare, toll, rental, or classification.

5. "Railroad commission" or "commission" means the Railroad Commission of Texas.

6. "Regulatory authority" means, in accordance with the context where it is found, either the railroad commission or the governing body of any municipality.

7. "Affected person" means any gas utility affected by any action of the regulatory authority, any person or corporation whose utility service or rates are affected by any proceeding before the regulatory authority, or any person or corporation that is a competitor of a gas utility with respect to any service performed by the utility or that desires to enter into competition.

8. "Affiliated interest" or "affiliate" means:

A. any person or corporation owning or holding, directly or indirectly, five percent or more of the voting securities of a gas utility;

B. any corporation in any chain of successive ownership of five percent or more of the voting securities of a gas utility;

C. any corporation five percent or more of the voting securities of which is owned or controlled, directly or indirectly, by a gas utility;

D. any corporation five percent or more of the voting securities of which is owned or controlled, directly or indirectly, by any person or corporation that owns or controls, directly or indirectly, five percent or more of the voting securities of any gas utility or by any person or corporation in any chain of successive ownership of five percent of such securities;

E. any person who is an officer or director of a gas utility or of any corporation in any chain or successive ownership of five percent or more of voting securities of a gas utility;
(F) any person or corporation that the railroad commission, after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a gas utility, or over which a gas utility exercises that control, or that is under common control with a gas utility, that control being the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of another, whether that power is established through ownership or voting of securities or by any other direct or indirect means; or

(G) any person or corporation that the railroad commission, after notice and hearing, determines is actually exercising such substantial influence over the policies and action of the gas utility in conjunction with one or more persons or corporations with which they are related by ownership or blood relationship, or by action in concert, that together they are affiliated with the gas utility within the meaning of this section, even though no one of them alone is so affiliated.

(9) "Allocations" means the division of plant, revenues, expenses, taxes, and reserves between municipalities or between municipalities and unincorporated areas, if those items are used for providing gas utility service in a municipality, or for a municipality and unincorporated areas.

(10) "Corporation" means any corporation, joint-stock company, or association, domestic or foreign, and its lessees, assignees, trustees, receivers, or other successors in interest, having any of the powers or privileges of corporations not possessed by individuals or partnerships, but does not include municipal corporations unless expressly provided otherwise in this Act.

(11) "Facilities" means all the plant and equipment of a gas utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any gas utility.

(12) "Municipally-owned utility" means any utility owned, operated, and controlled by a municipality or by a nonprofit corporation whose directors are appointed by one or more municipalities.

(13) "Order" means the whole or a part of the final disposition, whether affirmative, negative, injunctive, or declaratory in form, of the regulatory authority in a matter other than rulemaking but including rate setting.

(14) "Proceeding" means any hearing, investigation, inquiry, or other fact-finding or decision-making procedure under this Act and includes the denial of relief or the dismissal of a complaint.

(15) "Service" is used in this Act in its broadest and most inclusive sense, and includes any and all acts done, rendered, or performed and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by gas utilities in the performance of their duties under this Act to their patrons, employees, other gas utilities, and the public, as well as the interchange of facilities between two or more of them.

(16) "Test year" means the most recent 12 months for which operating data for a gas utility are available and shall commence with a calendar quarter or a fiscal year quarter.

Sec. 1.04. APPLICABILITY OF ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT. The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) applies to all procedures under this Act except to the extent inconsistent with this Act.

ARTICLE II. JURISDICTION

Sec. 2.01. GAS UTILITIES. (a) Subject to the limitations imposed in this Act, and for the purpose of regulating rates and services so that the rates may be fair, just, and reasonable, and the services adequate and efficient, the governing body of
each municipality has exclusive original jurisdiction over all gas utility rates, operations, and services provided by any gas utility within its city or town limits.

(b) The railroad commission has exclusive appellate jurisdiction to review all orders or ordinances of municipalities as provided in this Act. The railroad commission has exclusive original jurisdiction over the rates and services of gas utilities distributing natural gas or synthetic natural gas in areas outside the limits of municipalities, and it also has exclusive original jurisdiction over the rates and services of gas utilities transmitting, transporting, delivering, or selling natural gas or synthetic natural gas to gas utilities engaged in distributing the gas to the public.

(c) This Act is cumulative of existing laws relating to the jurisdiction, power, or authority of the railroad commission over gas utilities and, except as specifically in conflict with this Act, that jurisdiction, power, and authority is not limited by this Act. Provisions of this Act applicable to gas utilities within the jurisdiction of the railroad commission apply to all gas utilities, including those that are within the jurisdiction, power, or authority of the railroad commission by virtue of laws other than this Act.

Sec. 2.02. MUNICIPALLY OWNED GAS UTILITIES. This article does not confer on the railroad commission power or jurisdiction to regulate or supervise the rates or service of any gas utility owned and operated by any municipality within its boundaries either directly or through a municipally owned corporation, or to affect or limit the power, jurisdiction, or duties of the municipalities that have elected to regulate and supervise public utilities within their boundaries, except as provided in this Act.

ARTICLE III. MUNICIPALITIES

Sec. 3.01. FRANCHISES. This Act does not limit the rights and powers of a municipality to grant or refuse franchises to use the streets and alleys within its limits and to make the statutory charges for the use, but no provision of any franchise agreement shall limit or interfere with any power conferred on the railroad commission by this Act. If a municipality performs regulatory functions under this Act, it may make charges provided for in the applicable franchise agreement, together with any other charges permitted by this Act.

Sec. 3.02. RATE DETERMINATION. Any municipality regulating its gas utilities pursuant to this Act shall require from those utilities all necessary data to make a reasonable determination of rate base, expenses, investment, and rate of return within the municipal boundaries. The standards for that determination shall be based on the procedures and requirements of this Act and the municipality shall retain any and all personnel necessary to make the determination of reasonable rates required under this Act.

Sec. 3.03. AUTHORITY OF GOVERNING BODY; COST REIMBURSEMENT. The governing body of any municipality shall have the right to select and engage rate consultants, accountants, auditors, attorneys, engineers, or any combination thereof, to conduct investigations, present evidence, advise and represent the governing body, and assist with litigation or gas utility ratemaking proceedings, and the gas utility engaged in those proceedings shall be required to reimburse the governing body for the reasonable costs of those services.

Sec. 3.04. ASSISTANCE BY RAILROAD COMMISSION. The railroad commission may advise and assist municipalities upon request in connection with questions and proceedings arising under this Act. The assistance may include aid to municipalities in connection with matters pending before the railroad commission, or the courts, or before the governing body of any municipality, including making members of the staff available as witnesses and otherwise providing evidence.

Sec. 3.05. APPEAL. (a) Any party to a rate proceeding before the governing body of a municipality may appeal the decision of the governing body to the railroad commission.
(b) Citizens of a municipality may appeal the decision of the governing body in any rate proceeding to the railroad commission through the filing of a petition for review signed by the lesser of 20,000 or 10 percent of the number of qualified voters of such municipality.

(c) Ratepayers of a municipally owned gas utility outside the municipal limits may appeal any action of the governing body affecting the rates of the municipally owned gas utility through filing with the railroad commission a petition for review signed by the lesser of 10,000 or 5 percent of the ratepayers served by the utility outside the municipal limits. For purposes of this subsection each person receiving a separate bill shall be considered as a ratepayer, but no person shall be considered as being more than one ratepayer notwithstanding the number of bills received. The petition for review shall be considered properly signed if signed by any person, or spouse of any person, in whose name residential utility service is carried.

(d) The appeal process shall be instituted within 30 days of the final decision by the governing body with the filing of a petition for review with the railroad commission and the serving of copies on all parties to the original rate proceeding.

(e) The railroad commission shall hear the appeal de novo and by its final order shall fix rates that the municipality should have fixed in the ordinance from which the appeal was taken.

ARTICLE IV. RECORDS, REPORTS, INSPECTIONS, RATES, AND SERVICES

Sec. 4.01. RECORDS OF GAS UTILITY; RATES, METHODS, AND ACCOUNTS. (a) Every gas utility shall keep and render to the regulatory authority in the manner and form prescribed by the railroad commission uniform accounts of all business transacted. The railroad commission may also prescribe forms of books, accounts, records, and memoranda to be kept by gas utilities, including the books, accounts, records, and memoranda of the rendition of and capacity for service as well as the receipts and expenditures of money, and any other forms, records, and memoranda which in the judgment of the railroad commission may be necessary to carry out any of the provisions of this Act. In the case of a gas utility subject to regulations by a federal regulatory agency, compliance with the system of accounts prescribed for the particular class of utilities by the agency may be deemed a sufficient compliance with the system prescribed by the railroad commission; provided, however, that the railroad commission may prescribe forms of books, accounts, records, and memoranda covering information in addition to that required by the federal agency. The system of accounts and the forms of books, accounts, records, and memoranda prescribed by the railroad commission for a gas utility or class of utilities must not conflict nor be inconsistent with the systems and forms established by a federal agency for that gas utility or class of utilities.

(b) The railroad commission shall fix proper and adequate rates and methods of depreciation, amortization, or depletion of the several classes of property of each gas utility, and shall require every gas utility to carry a proper and adequate depreciation account in accordance with the rates and methods and with such other rules and regulations as the railroad commission prescribes. The rates, methods, and accounts shall be utilized uniformly and consistently throughout the rate setting and appeal proceedings.

(c) Every gas utility shall keep separate accounts to show all profits or losses resulting from the sale or lease of appliances, fixtures, equipment, or other merchandise. That profit or loss may not be taken into consideration by the regulatory authority in arriving at a rate to be charged for service by a gas utility, to the extent that that merchandise is not integral to the provision of utility service.

(d) Every gas utility is required to keep and render its books, accounts, records, and memoranda accurately and faithfully in the manner and form prescribed by the railroad commission, and to comply with all directions of the
regulatory authority relating to those books, accounts, records, and memoranda. The regulatory authority may require the examination and audit of all accounts.

e) In determining the allocation of tax savings derived from application of methods such as liberalized depreciation and amortization and the investment tax credit, the regulatory authority shall equitably balance the interests of present and future customers and shall apportion the benefits between consumers and the gas utilities accordingly. If any portion of the investment tax credit has been retained by a gas utility, that same amount shall be deducted from the original cost of the facilities or other addition to the rate base to which the credit applied, to the extent allowed by the Internal Revenue Code.

(f) For the purposes of this section, "gas utility" includes "municipally owned utility."

Sec. 4.02. POWERS OF RAILROAD COMMISSION. The railroad commission shall have the power to:

1. require that gas utilities report to it such information relating to themselves and affiliated interests both within and without the State of Texas as it may consider useful in the administration of this Act;
2. establish forms for all reports;
3. determine the time for reports and the frequency with which any reports are to be made;
4. require that any reports be made under oath;
5. require that a copy of any contract or arrangement between any gas utility and any affiliated interest be filed with it, and require a contract or arrangement of that type not in writing to be reduced to writing and filed with it;
6. require that a copy of any report filed with any federal agency or any governmental agency or body of any other state be filed with it; and
7. require that a copy of annual reports showing all payments of compensation (other than salary or wages subject to the withholding of federal income tax) to residents of Texas, or with respect to legal, administrative, or legislative matters in Texas, or for representation before the Texas Legislature or any governmental agency or body be filed with it.

Sec. 4.03. INSPECTIONS; EXAMINATION UNDER OATH; COMPELLING PRODUCTION OF RECORDS; INQUIRY INTO MANAGEMENT AND AFFAIRS. (a) Any regulatory authority, and when authorized by the regulatory authority, its counsel, agents, and employees, is entitled, at reasonable times and for reasonable purposes, to inspect and obtain copies of the papers, books, accounts, documents, and other business records, and to inspect the plant, equipment, and other property of any gas utility within its jurisdiction. The regulatory authority may examine under oath, or it may authorize the person conducting the investigation to examine under oath, any officer, agent, or employee of any gas utility in connection with the investigation. The regulatory authority may require, by order or subpoena served on any gas utility, the production within this state at the time and place it may designate, of any books, accounts, papers, or records kept by the gas utility outside the state, or verified copies in lieu thereof served. Any gas utility failing or refusing to comply with the order or subpoena is in violation of this Act.

(b) A member, agent, or employee of the regulatory authority may enter the premises occupied by a gas utility to make inspections, examinations, and tests and to exercise any authority provided by this Act. A member, agent, or employee of the regulatory authority may act under this subsection only during reasonable hours and after giving reasonable notice to the utility. The gas utility is entitled to be represented when inspections, examinations, and tests are made on its premises. Reasonable time for the utility to secure a representative shall be allowed before commencing an inspection, examination, or test.
(c) The regulatory authority may inquire into the management and affairs of all gas utilities, and shall keep itself informed as to the manner and method in which the same are conducted.

Sec. 4.04. REPORTING OF ADVERTISING OR PUBLIC RELATIONS EXPENSES. The regulatory authority may require an annual reporting from each utility company of all its expenditures for business gifts and entertainment, and institutional, consumption-inducing and other advertising or public relations expenses. The regulatory authority may not allow as costs or expenses for ratemaking purposes any of these expenditures which the regulatory authority determines not to be in the public interest. The cost of legislative-advocacy expenses may not in any case be allowed as costs or expenses for ratemaking purposes. Reasonable charitable or civic contributions may be allowed, but may not exceed the amount approved by the regulatory authority.

Sec. 4.05. UNLAWFUL RATES, RULES, AND REGULATIONS. It shall be unlawful for any utility to charge, collect, or receive any rate for gas utility service or impose any rule or regulation other than as provided by this Act.

Sec. 4.06. FILING SCHEDULE OF RATES, RULES, AND REGULATIONS. Every gas utility shall file with each regulatory authority schedules showing all rates which are subject to the original or appellate jurisdiction of the regulatory authority and which are in force at the time of any gas utility service, product, or commodity offered by the utility. Every gas utility shall file with, and as a part of those schedules, all rules and regulations relating to or affecting the rates, gas utility service, product, or commodity furnished by the utility.

Sec. 4.07. OFFICE OF GAS UTILITY; RECORDS; REMOVAL FROM STATE. Every gas utility shall have an office in a county of this state in which its property or some part thereof is located in which it shall keep all books, accounts, records, and memoranda required by the railroad commission to be kept in the state. Books, accounts, records, or memoranda required by the regulatory authority to be kept in the state may not be removed from the state except on conditions prescribed by the railroad commission.

Sec. 4.08. COMMUNICATIONS BY GAS UTILITIES WITH REGULATORY AUTHORITY; REGULATIONS AND RECORDS. (a) The regulatory authority shall prescribe regulations governing communications by gas utilities, their affiliates, and their representatives, with the regulatory authority or any member or employee of the regulatory authority.

(b) The record shall contain the name of the person contacting the regulatory authority or member or employee of the regulatory authority, the name of the business entities represented, a brief description of the subject matter of the communication, and the action, if any, requested by the gas utility, affiliate, or representative. These records shall be available to the public on a monthly basis.

Sec. 4.09. STANDARDS OF SERVICE. (a) Every gas utility shall furnish service, instrumentalities, and facilities that are safe, adequate, efficient, and reasonable.

(b) The regulatory authority after reasonable notice and hearing had on its own motion or on complaint, may:

1. Ascertain and fix just and reasonable standards, classifications, regulations, or practices to be observed and followed by any or all gas utilities with respect to the service to be furnished;

2. Ascertain and fix adequate and reasonable standards for the measurement of the quantity, quality, pressure, or other condition pertaining to the supply of the service;

3. Prescribe reasonable regulations for the examination and testing of the service and for the measurement thereof; and
(4) establish or approve reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters, instruments, and equipment used for the measurement of any service of any gas utility.

(c) Any standards, classifications, regulations, or practices observed or followed by any gas utility may be filed by it with the regulatory authority and shall continue in force until amended by the gas utility or until changed by the regulatory authority as provided by this Act.

Sec. 4.10. EXAMINATION AND TEST OF EQUIPMENT. (a) The regulatory authority may examine and test any meter, instrument, or equipment used for the measurement of any service of any gas utility, may enter any premises occupied by any gas utility for the purpose of making the examinations and tests and exercising any power provided for in this Act, and may set up and use on those premises any apparatus and appliances necessary for those purposes. The gas utility is entitled to be represented at the making of the examinations, tests, and inspections. The gas utility and its officers and employees shall facilitate the examinations, tests, and inspections by giving every reasonable aid to the regulatory authority and any person or persons designated by the regulatory authority for the performance of those duties.

(b) Any consumer or user may have any meter or measuring device tested by the utility once without charge, after a reasonable period to be fixed by the regulatory authority by rule, and at shorter intervals on payment of reasonable fees fixed by the regulatory authority. The regulatory authority shall declare and establish reasonable fees to be paid for other examining and testing of the meters and other measuring devices on the request of the consumer. If the test is requested to be made within the period of presumed accuracy as fixed by the regulatory authority since the last test of the same meter or other measuring device, the fee to be paid by the consumer or user at the time of this request shall be refunded to the consumer or user if the meter or measuring device is found unreasonably defective or incorrect to the substantial disadvantage of the consumer or user. If the consumer’s request is made at a time beyond the period of presumed accuracy fixed by the regulatory authority since the last test of the same meter or measuring device, the utility shall make the test without charge to the consumer or user.

ARTICLE V. PROCEEDINGS BEFORE REGULATORY AUTHORITY

Sec. 5.01. POWER TO ENSURE COMPLIANCE; RATE REGULATION. Subject to the provisions of this Act, the railroad commission is hereby vested with all authority and power of the State of Texas to ensure compliance with the obligations of gas utilities in this Act. For this purpose the regulatory authority is empowered to fix and regulate rates of gas utilities, including rules and regulations for determining the classification of customers and services and for determining the applicability of rates. A rule or order of the regulatory authority may not conflict with the rulings of any federal regulatory body.

Sec. 5.02. JUST AND REASONABLE RATES. (a) It shall be the duty of the regulatory authority to ensure that every rate made, demanded, or received by any gas utility, or by any two or more gas utilities jointly, is just and reasonable. Rates may not be unreasonably preferential, prejudicial, or discriminatory, but must be sufficient, equitable, and consistent in application to each class of consumers. For ratemaking purposes, the railroad commission may treat two or more municipalities served by a gas utility as a single class if the railroad commission considers that treatment to be appropriate.

(b) Rates charged or offered to be charged by a gas utility for pipeline-to-pipeline transactions, and rates to be charged to transportation, industrial, and other similar large volume contract customers, but excluding city gate sales-for-resale to gas distribution utilities, are considered to be just and
reasonable and otherwise to comply with this section, and shall be approved by the regulatory authority, if:

1. neither the gas utility nor the customer had an unfair advantage during the negotiations;
2. the rates are substantially the same as rates between the gas utility and two or more of those customers under the same or similar conditions of service; or
3. competition does or did exist either with another gas utility, another supplier of natural gas, or with a supplier of an alternative form of energy.

(c) If a complaint is filed with the railroad commission by a transmission pipeline purchaser of gas sold or transported under any such pipeline-to-pipeline or transportation rate, then the provisions of Subsection (b) shall not apply.

Sec. 5.03. FIXING OVERALL REVENUES. In fixing the rates of a gas utility the regulatory authority shall fix its overall revenues at a level that will permit the utility to recover its operating expenses together with a reasonable return on its invested capital.

Sec. 5.04. FAIR RETURN; BURDEN OF PROOF. (a) The regulatory authority may not prescribe any rate that will yield more than a fair return on the adjusted value of the invested capital used and useful in rendering service to the public.

(b) In any proceeding involving any proposed change of rates, the burden of proof to show that the proposed change, if proposed by the utility, or that the existing rate, if it is proposed to reduce the rate, is just and reasonable is on the gas utility.

Sec. 5.05. COMPONENTS OF ADJUSTED VALUE OF INVESTED CAPITAL. (a) The components of adjusted value of invested capital shall be determined in accordance with this section.

(b) Utility rates shall be based on the adjusted value of property used by and useful to the gas utility in providing service including, if necessary to the financial integrity of the utility construction, work in progress at cost as recorded on the books of the utility. The adjusted value of the property shall be a reasonable balance between original cost less depreciation and current cost less an adjustment for both present age and condition. The regulatory authority has discretion to determine a reasonable balance that reflects not less than 60 percent nor more than 75 percent of the original cost (that is, the actual money cost or the actual money value of any consideration paid other than money) of the property at the time it was dedicated to public use, whether by the utility that is the present owner or by a predecessor, less depreciation, and not less than 25 percent nor more than 40 percent of the current cost less an adjustment for both present age and condition. The regulatory authority may consider inflation, deflation, quality of service being provided, the growth rate of the service area, and the need for the gas utility to attract new capital in determining a reasonable balance.

(c) Costs of facilities, revenues, expenses, taxes, and reserves shall be separated or allocated as prescribed by the regulatory authority.

Sec. 5.06. COMPONENTS OF NET INCOME. (a) The components of net income shall be determined in accordance with this section. "Net income" means the total revenues of the gas utility less all reasonable and necessary expenses as determined by the regulatory authority. The regulatory authority shall determine expenses and revenues in a manner consistent with Subsections (b)-(d) of this section.

(b) Payment to affiliated interests for costs of any services, or any property, right, or thing, or for interest expense may not be allowed either as capital costs or as expense except to the extent that the regulatory authority finds the payment to be reasonable. Any finding of reasonableness shall include specific statements setting forth the cost to the affiliate of each item or class of items in question and
a finding that the price to the utility is no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or items, or to unaffiliated persons or corporations.

(c) If the gas utility is a member of an affiliated group that is eligible to file a consolidated income tax return, and if it is advantageous to the gas utility to do so, income taxes shall be computed as though a consolidated return had been so filed and the utility had realized its fair share of the savings resulting from the consolidated return, unless it is shown to the satisfaction of the regulatory authority that it was reasonable to choose not to consolidate returns. The amounts of income taxes saved by a consolidated group of which a gas utility is a member by reason of the elimination in the consolidated return of the intercompany profit on purchases by the gas utility from an affiliate shall be applied to reduce the cost of the property or services so purchased. The investment tax credit allowed against federal income taxes, to the extent retained by the utility, shall be applied as a reduction in the rate based contribution of the assets to which the credit applies, to the extent and at the rate allowed by the Internal Revenue Code.

(d) The regulatory authority may promulgate reasonable rules and regulations with respect to the allowance or disallowance of certain expenses for ratemaking purposes.

Sec. 5.07. UNREASONABLE OR VIOLATIVE EXISTING RATES; INVESTIGATING COSTS OF OBTAINING SERVICE FROM ANOTHER SOURCE. (a) If the regulatory authority, after reasonable notice and hearing, on its own motion or on complaint by any affected person, finds that the existing rates of any gas utility for any service are unreasonable or in any way in violation of any provision of law, the regulatory authority shall determine the just and reasonable rates, including maximum or minimum rates, to be thereafter observed and in force, and shall fix the same by order to be served on the gas utility. Those rates shall constitute the legal rates of the gas utility until changed as provided by this Act.

(b) If a gas utility does not itself produce that which it distributes, transmits, or furnishes to the public for compensation, but obtains the same from another source, the regulatory authority has the power and authority to investigate the cost of that production in any investigation of the reasonableness of the rates of the gas utility.

Sec. 5.08. STATEMENT OF INTENT TO CHANGE RATES; MAJOR CHANGES; HEARING; SUSPENSION OF RATE SCHEDULE; DETERMINATION OF RATE LEVEL. (a) No utility may make changes in its rates except by filing a statement of intent with the regulatory authority having original jurisdiction at least 35 days prior to the effective date of the proposed change. The statement of intent shall include proposed revisions of tariffs and schedules and a statement specifying in detail each proposed change, the effect the proposed change is expected to have on the revenues of the company, the classes and numbers of utility consumers affected, and other information required by the regulatory authority’s rules and regulations. A copy of the statement of intent shall be mailed or delivered to the appropriate officer of each affected municipality, and notice shall be given by publication in conspicuous form and by placing a notice to the public of the proposed change once in each week for four successive weeks in a newspaper having general circulation in each county containing territory affected by the proposed change. Notice shall be given to other affected persons as required by the regulatory authority’s rules and regulations.

(b) The regulatory authority, for good cause shown, may, except in the case of major changes, allow changes in rate to take effect prior to the end of the 35-day period under conditions it prescribes, subject to suspension as provided by this Act. All changes of that type shall be indicated immediately on its schedules by the utility. “Major changes” means an increase in rates which would increase the
aggregate revenues of the applicant more than the greater of $100,000 or 2-1/2 percent, but does not include changes in rates allowed to go into effect by the regulatory authority or made by the utility pursuant to an order of the regulatory authority after hearings held on notice to the public.

(c) If there is filed with the regulatory authority any schedule modifying or resulting in a change in any rates then in force, the regulatory authority shall on complaint by any affected person or may on its own motion, at any time within 30 days from the date when the change would or has become effective, and, if it so orders, without answer or other formal pleading by the utility, but on reasonable notice, including notice to the governing bodies of all affected municipalities and counties, enter on a hearing to determine the propriety of the change. The regulatory authority shall hold the hearing in every case in which the change constitutes a major change in rates, provided that an informal proceeding may satisfy this requirement if no complaint has been received before the expiration of 45 days after notice of the change has been filed.

(d) Pending the hearing and decision, the regulatory authority, after delivery to the affected utility of a statement in writing of its reasons therefor, may suspend the operation of the schedule for a period not to exceed 120 days beyond the date on which the schedule of rates would otherwise go into effect. If the regulatory authority finds that a longer time will be required for a final determination, the regulatory authority may further extend the period for an additional 30 days. If the regulatory authority does not make a final determination concerning any schedule of rates within a period of 150 days after the time when the schedule of rates would otherwise go into effect, the schedule is considered to have been approved by the regulatory authority. This approval is subject to the authority of the regulatory authority thereafter to continue a hearing in progress. The regulatory authority may in its discretion fix temporary rates for any period of suspension under this subsection. During the suspension by the regulatory authority as provided by this subsection, the rates in force when the suspended schedule was filed continue in force unless the regulatory authority establishes a temporary rate. The regulatory authority shall give preference to the hearing and decision of questions arising under this subsection over all other questions pending before it and shall decide the questions as speedily as possible.

(e) If the regulatory authority fails to make its final determination of rates within 90 days from the date that the proposed change otherwise would have gone into effect, the utility concerned may put a changed rate, not to exceed the proposed rate, into effect on the filing with the regulatory authority of a bond payable to the regulatory authority in an amount and with sureties approved by the regulatory authority conditioned on refund and in a form approved by the regulatory authority. The utility concerned shall refund or credit against future bills all sums collected during the period of suspension in excess of the rate finally ordered plus interest at the current rate as finally determined by the regulatory authority.

Sec. 5.09. RATES FOR AREAS NOT WITHIN MUNICIPALITY. Without railroad commission approval, gas utility rates of areas not within a municipality may not exceed 115 percent of the average of all rates for similar services of all municipalities served by the same utility within the same county.

Sec. 5.10. UNREASONABLE PREFERENCE OR PREJUDICE AS TO RATES OR SERVICES. No gas utility may, as to rates or services, make or grant any unreasonable preference or advantage to any corporation or person within any
classification, or subject any corporation or person within any classification to any unreasonable prejudice or disadvantage. No gas utility may establish and maintain any unreasonable differences as to rates of service either as between localities or as between classes of service.

Sec. 5.11. EQUALITY OF RATES AND SERVICES. No gas utility may, directly or indirectly, by any device whatsoever or in any manner, charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered by the utility than that prescribed in the schedule of rates of the gas utility applicable when filed in the manner provided in this Act, nor may any person knowingly receive or accept any service from a gas utility for a compensation greater or less than that prescribed in the schedules, provided that all rates being charged and collected by a gas utility on September 1, 1983, may be continued until schedules are filed. This Act does not prevent a cooperative corporation from returning to its members the whole, or any part of, the net earnings resulting from its operations in proportion to their purchases from or through the corporation.

Sec. 5.12. DISCRIMINATION; RESTRICTION ON COMPETITION. No gas utility may discriminate against any person or corporation that sells or leases equipment or performs services in competition with the gas utility, nor may any gas utility engage in any other practice that tends to restrict or impair that competition.

Sec. 5.13. PAYMENTS IN LIEU OF TAXES. No payments made in lieu of taxes by a gas utility to the municipality by which it is owned may be considered an expense of operation for the purpose of determining, fixing, or regulating the rates to be charged for the provision of utility service to a school district or hospital district. No rates received by a gas utility from a school district or hospital district may be used to make or to cover the cost of making payments in lieu of taxes to the municipality by which the gas utility is owned.

ARTICLE VI. SALE OF PROPERTY AND MERGERS

Sec. 6.01. REPORT OF SALE, MERGER, ETC.; INVESTIGATION; DISALLOWANCE OF TRANSACTION. No gas utility may sell, acquire, lease, or rent any plant as an operating unit or system in this state for a total consideration in excess of $100,000, or merge or consolidate with another gas utility operating in this state, unless the gas utility reports the transaction to the railroad commission within a reasonable time. On the filing of a report with the railroad commission, the railroad commission shall investigate the matter, with or without public hearing, to determine whether the action is consistent with the public interest. In reaching its determination, the railroad commission shall take into consideration the reasonable value of the property, facilities, or securities to be acquired, disposed of, merged or consolidated. If the railroad commission finds that the transaction is not in the public interest, the railroad commission shall take the effect of the transaction into consideration in the ratemaking proceedings and shall disallow the effect of the transaction if it will unreasonably affect rates or service. The provisions of this section do not apply to the purchase of units of property for replacement or to the addition to the facilities of the gas utility by construction.

Sec. 6.02. PURCHASE OF VOTING STOCK IN ANOTHER GAS UTILITY: REPORT. No gas utility may purchase voting stock in another gas utility doing business in Texas, unless the utility reports the purchase to the railroad commission.

Sec. 6.03. LOANS TO STOCKHOLDERS: REPORT. No gas utility may loan money, stocks, bonds, notes, or other evidences of indebtedness to any corporation or person owning or holding directly or indirectly any stock of the gas utility unless the gas utility reports the transaction to the railroad commission within a reasonable time.
Sec. 6.04. GAS RESERVE RIGHTS: APPROVAL OF SALE, CONVEYANCE, ETC. No gas utility may sell, convey, bank, or assign rights to gas reserves to a utility or, where not in conflict with federal law, to an interstate pipeline without prior approval of the railroad commission.

ARTICLE VII. RELATIONS WITH AFFILIATED INTERESTS

Sec. 7.01. JURISDICTION OVER AFFILIATED INTERESTS. The railroad commission has jurisdiction over affiliated interests having transactions with gas utilities under the jurisdiction of the railroad commission to the extent of access to all accounts and records of the affiliated interests relating to the transactions, including but in no way limited to accounts and records of joint or general expenses, any portion of which may be applicable to the transactions.

Sec. 7.02. DISCLOSURE OF SUBSTANTIAL INTEREST IN VOTING SECURITIES. The railroad commission may require the disclosure of the identity and respective interests of every owner of any substantial interest in the voting securities of any gas utility or its affiliated interest. One percent or more is a substantial interest within the meaning of this section.

ARTICLE VIII. JUDICIAL REVIEW

Sec. 8.01. RIGHT TO JUDICIAL REVIEW; EVIDENCE. Any party to a proceeding before the railroad commission is entitled to judicial review under the substantial evidence rule. The issue of confiscation shall be determined by a preponderance of the evidence.

ARTICLE IX. VIOLATIONS AND ENFORCEMENT

Sec. 9.01. ACTION TO ENJOIN OR REQUIRE COMPLIANCE. If it appears to the railroad commission that any gas utility or any other person or corporation is engaged in, or is about to engage in, any act in violation of this Act or of any order, rule, or regulation of the railroad commission entered or adopted under the provisions of this Act, or that the gas utility or any other person or corporation is failing to comply with the provisions of this Act or with any of those rules, regulations, or orders, the attorney general on request of the railroad commission, in addition to any other remedies provided by this Act, shall bring an action in a court of competent jurisdiction in the name of and on behalf of the railroad commission against the gas utility or other person or corporation to enjoin the commencement or continuation of the act, or to require compliance with this Act or the rule, regulation, or order.

Sec. 9.02. PENALTY AGAINST GAS UTILITY OR AFFILIATED INTEREST. (a) Any gas utility or affiliated interest that knowingly violates a provision of this Act, fails to perform a duty imposed on it, or fails, neglects, or refuses to obey an order, rule, regulation, direction, or requirement of the railroad commission or a decree or judgment of a court, is subject to a civil penalty of not less than $1,000 nor more than $5,000 for each violation.  

(b) A gas utility or affiliated interest commits a separate violation for each day a violation described by Subsection (a) of this section continues.  

(c) The attorney general shall institute suit on his own initiative or at the request of, in the name of, and on behalf of the railroad commission, in a court of competent jurisdiction to recover the penalty under this section.

Sec. 9.03. PERSONAL PENALTY. (a) A person or persons who knowingly violate the provisions of this Act commit an offense. An offense under this subsection is a felony of the third degree.  

(b) All penalties accruing under this Act are cumulative and a suit for the recovery of any penalty does not bar or affect the recovery of any other penalty, nor does it bar any criminal prosecution against a gas utility, officer, director, agent, or employee of a gas utility, or any other person.

Sec. 9.04. CONTEMPT PROCEEDINGS. If any person fails to comply with any lawful order of the railroad commission or with any subpoena or subpoena
duces tecum or if any witness refuses to testify about any matter on which he may be lawfully interrogated, the railroad commission may apply to any court of competent jurisdiction to compel obedience by proceedings for contempt.

Sec. 9.05. DISPOSITION OF FINES AND PENALTIES. Fines and penalties collected under this Act in other than criminal proceedings shall be paid to the railroad commission and paid by the railroad commission to the state treasury to be placed in the general revenue fund.

Sec. 9.06. VENUE. Suits for injunction or penalties under the provisions of this Act may be brought in Travis County, in any county where the violation is alleged to have occurred, or in the county of residence of any defendant.

ARTICLE X. MISCELLANEOUS PROVISIONS

Sec. 10.01. COMPLAINT BY ANY AFFECTED PERSON. Any affected person may complain to the regulatory authority in writing setting forth any act or thing done or omitted to be done by any gas utility in violation or claimed violation of any law which the regulatory authority has jurisdiction to administer, or of any order, ordinance, rule, or regulation of the regulatory authority.

Sec. 10.02. RECORD OF PROCEEDINGS; RIGHT TO HEARING. A record shall be kept of all proceedings had before the regulatory authority, and all the parties are entitled to be heard in person or by attorney.

Sec. 10.03. JUDICIAL STAY OR SUSPENSION OF ORDER, RULING, OR DECISION. During the pendency of an appeal, the district court, the court of appeals, or the supreme court, as the case may be, may stay or suspend, in whole or in part, the operation of the regulatory authority order, ruling, or decision and, in granting or refusing a stay or suspension, the court shall act in accordance with the practice of courts exercising equity jurisdiction.

Sec. 10.04. LIBERAL CONSTRUCTION. This Act shall be construed liberally to promote the effectiveness and efficiency of regulation of gas utilities to the extent that construction preserves the validity of this Act and its provisions. The provisions of this Act shall be construed to apply so as not to conflict with any authority of the United States.

SECTION — Sections 3(c), (g), and (i), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) The term “public utility” or “utility,” when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation or a water supply or sewer service corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ("electric utilities" hereinafter) provided, however, that this definition shall not be construed to apply to or include a qualifying small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796(17)(D) and 796(18)(C));

(2) the conveyance, transmission, or reception of communications over a telephone system; provided that no person or corporation not otherwise a public utility within the meaning of this Act shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system; and provided further that nothing in this Act shall be construed to apply to telegraph services, services of specialized communications common carriers not providing local exchange telephone service, television stations, radio stations, community antenna television services, or radio-telephone services that may be authorized under the Domestic Public Land Mobile Radio Service or Rural Radio Service rules of the Federal Communications Commission, other than such radio-telephone services provided by wire-line telephone companies;
(3) [transmitting or distributing combustible hydrocarbon natural or synthetic natural gas for sale or resale in a manner which is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act (15 U.S.C.A., Section 717, et seq.)(*gas utilities* hereinafter) provided that the production, gathering, transportation, or sale of natural gas or synthetic gas under Section 4, Article 6050, Revised Civil Statutes of Texas, 1925, as amended, the distribution or sale of liquefied petroleum gas, and the transportation, delivery, or sale of natural gas for fuel for irrigation wells or any other direct use in agricultural activities is not included.

[49] the transmitting, storing, distributing, selling, or furnishing of potable water to the public or for resale to the public for any use, or the collection, transportation, treatment, or disposal of sewage, or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a city, town or other political subdivision of this state or a water supply or sewer service corporation. The term “public utility” or “utility” shall not include any person or corporation not otherwise a public utility that furnishes the services or commodity described in any paragraph of this subsection only to itself, its employees, or tenants as an incident of such employee service or tenancy, when such service or commodity is not resold to or used by others. The term “electric utility” shall not include any person or corporation not otherwise a public utility that owns or operates in this state equipment or facilities for producing, generating, transmitting, distributing, selling, or furnishing electric energy to an electric utility, if the equipment or facilities are used primarily for the production and generation of electric energy for consumption by the person or corporation.

(g) The term “regulatory authority,” when used in this Act, means, in accordance with the context where it is found, either the commission[the railroad commission] or the governing body of any municipality.

(i) “Affiliated interest” or “affiliate” means:

(1) any person or corporation owning or holding, directly or indirectly, five percent or more of the voting securities of a public utility;

(2) any person or corporation in any chain of successive ownership of five percent or more of the voting securities of a public utility;

(3) any corporation five percent or more of the voting securities of which is owned or controlled, directly or indirectly, by a public utility;

(4) any corporation five percent or more of the voting securities of which is owned or controlled, directly or indirectly, by any person or corporation that owns or controls, directly or indirectly, five percent or more of the voting securities of any public utility or by any person or corporation in any chain of successive ownership of five percent of such securities;

(5) any person who is an officer or director of a public utility or of any corporation in any chain of successive ownership of five percent or more of voting securities of a public utility;

(6) any person or corporation that the commission[the railroad commission], after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a public utility, or over which a public utility exercises such control, or that is under common control with a public utility, such control being the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of another, whether such power is established through ownership or voting of securities or by any other direct or indirect means, or

(7) any person or corporation that the commission[the railroad commission], after notice and hearing determines is actually exercising such substantial influence over the policies and action of the public utility in conjunction with one or more
persons or corporations with which they are related by ownership or blood relationship, or by action in concert, that together they are affiliated with such public utility within the meaning of this section, even though no one of them alone is so affiliated.

SECTION ___. Sections 27(a), (b), and (d), Public Utility Regulatory Act (Article 1446c, Vernon’s Texas Civil Statutes), are amended to read as follows:

(a) Every public utility shall keep and render to the regulatory authority in the manner and form prescribed by the commission [or railroad commission] uniform accounts of all business transacted. The commission [or railroad commission] may also prescribe forms of books, accounts, records, and memoranda to be kept by such public utilities, including the books, accounts, records, and memoranda of the rendition of and capacity for service as well as the receipts and expenditures of moneys, and any other forms, records, and memoranda which in the judgment of the commission [or railroad commission] may be necessary to carry out any of the provisions of this Act. In the case of any public utility subject to regulations by a federal regulatory agency, compliance with the system of accounts prescribed for the particular class of utilities by such agency may be deemed a sufficient compliance with the system prescribed by the commission [or railroad commission]; provided, however, that the commission [or railroad commission] may prescribe forms of books, accounts, records, and memoranda covering information in addition to that required by the federal agency. The system of accounts and the forms of books, accounts, records, and memoranda prescribed by the commission [or railroad commission] for a public utility or class of utilities shall not conflict nor be inconsistent with the systems and forms established by a federal agency for that public utility or class of utilities.

(b) The commission [or railroad commission] shall fix proper and adequate rates and methods of depreciation, amortization, or depletion of the several classes of property of each public utility, and shall require every public utility to carry a proper and adequate depreciation account in accordance with such rates and methods and with such other rules and regulations as the commission [or railroad commission] prescribes. Such rates, methods, and accounts shall be utilized uniformly and consistently throughout the ratesetting and appeal proceedings.

(d) Every public utility is required to keep and render its books, accounts, records, and memoranda accurately and faithfully in the manner and form prescribed by the commission [or railroad commission], and to comply with all directions of the regulatory authority relating to such books, accounts, records, and memoranda. The regulatory authority may require the examination and audit of all accounts.

SECTION ___. Section 29(a), Public Utility Regulatory Act (Article 1446c, Vernon’s Texas Civil Statutes), is amended to read as follows:

(a) Any regulatory authority, and when authorized by the regulatory authority, its counsel, agents, and employees, shall have the right, at reasonable times and for reasonable purposes, to inspect and obtain copies of the papers, books, accounts, documents, and other business records, and to inspect the plant, equipment, and other property of any public utility within its jurisdiction. The regulatory authority may examine under oath, or it may authorize the person conducting such investigation to examine under oath, any officer, agent, or employee of any public utility in connection with such investigation. The regulatory authority may require, by order or subpoena served on any public utility, the production within this state at the time and place it may designate, of any books, accounts, papers, or records kept by that public utility outside the state, or verified copies in lieu thereof if the commission [or railroad commission] so orders. Any public utility failing or refusing to comply with any such order or subpoena is in violation of this Act.
SECTION ___. Section 49(b), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) ["Public utility" does not include any person, corporation, municipality, political subdivision or agency, or cooperative corporation under the jurisdiction of the Railroad Commission.] For the purposes of this article only, "public utility" includes a water supply or sewer service corporation.

SECTION ___. Sections 3(f), 19, and 66, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), are repealed.

SECTION ___. Sections 20, 21, 25, 26, 28, 33, 37, 38, 44, 63-65, 67, 68, 71, 72, 75, and 76, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 20. Nothing in this article shall be construed to confer on the commission [or Railroad Commission] power or jurisdiction to regulate or supervise the rates or service of any utility owned and operated by any municipality within its boundaries either directly or through a municipally owned corporation, or to affect or limit the power, jurisdiction, or duties of the municipalities that have elected to regulate and supervise public utilities within their boundaries, except as provided in this Act.

Sec. 21. Nothing in this Act shall be construed as in any way limiting the rights and powers of a municipality to grant or refuse franchises to use the streets and alleys within its limits and to make the statutory charges for the use thereof, but no provision of any franchise agreement shall limit or interfere with any power conferred on the commission [or Railroad Commission] by this Act. If a municipality performs regulatory functions under this Act, it may make such other charges as may be provided in the applicable franchise agreement, together with any other charges permitted by this Act.

Sec. 25. The commission [or the Railroad Commission] may advise and assist municipalities upon request in connection with questions and proceedings arising under this Act. Such assistance may include aid to municipalities in connection with matters pending before the commission [or Railroad Commission] or the courts, or before the governing body of any municipality, including making members of the staff available as witnesses and otherwise providing evidence to them.

Sec. 26. (a) Any party to a rate proceeding before the governing body of a municipality may appeal the decision of the governing body to the commission [or Railroad Commission].

(b) Citizens of a municipality may appeal the decision of the governing body in any rate proceeding to the commission [or Railroad Commission] through the filing of a petition for review signed by the lesser of 20,000 or 10 percent of the number of qualified voters of such municipality.

(c) Ratepayers of a municipally owned [gas or] electric utility outside the municipal limits may appeal any action of the governing body affecting the rates of the municipally owned [gas or] electric utility through filing with the commission [or Railroad Commission, as appropriate] petition for review signed by the lesser of 10,000 or 5 percent of the ratepayers served by such utility outside the municipal limits. For purposes of this subsection each person receiving a separate bill shall be considered as a ratepayer. But no person shall be considered as being more than one ratepayer notwithstanding the number of bills received. Such petition for review shall be considered properly signed if signed by any person, or spouse of any such person, in whose name residential utility service is carried.

(d) The appeal process shall be instituted within 30 days of the final decision by the governing body with the filing of a petition for review with the commission [or Railroad Commission] and copies served on all parties to the original rate proceeding.

(e) The commission [or Railroad Commission] shall hear such appeal de novo and by its final order shall fix such rates as the municipality should have fixed in the ordinance from which the appeal was taken.
Sec. 28. (a) The commission [and the railroad commission] shall have the power to:

(1) require that public utilities report to it such information relating to themselves and affiliated interests both within and without the State of Texas as it may consider useful in the administration of this Act;

(2) establish forms for all reports;

(3) determine the time for reports and the frequency with which any reports are to be made;

(4) require that any reports be made under oath;

(5) require that a copy of any contract or arrangement between any public utility and any affiliated interest be filed with it. It may require any such contract or arrangement not in writing to be reduced to writing and filed with it;

(6) require that a copy of any report filed with any federal agency or any governmental agency or body of any other state be filed with it; and

(7) require that a copy of annual reports showing all payments of compensation (other than salary or wages subject to the withholding of federal income tax) to residents of Texas, or with respect to legal, administrative, or legislative matters in Texas, or for representation before the Texas Legislature or any governmental agency or body.

(b) On the request of the governing body of any municipality, the commission [or railroad commission] may provide sufficient staff members to advise and consult with such municipality on any pending matter.

Sec. 33. Every public utility shall have an office in a county of this state in which its property or some part thereof is located in which it shall keep all books, accounts, records, and memoranda required by the commission [or railroad commission] to be kept in the state. No books, accounts, records, or memoranda required by the regulatory authority to be kept in the state shall be removed from the state, except on conditions prescribed by the commission [or railroad commission].

Sec. 37. Subject to the provisions of this Act, the commission [or railroad commission] is hereby vested with all authority and power of the State of Texas to insure compliance with the obligations of public utilities in this Act. For this purpose the regulatory authority is empowered to fix and regulate rates of public utilities, including rules and regulations for determining the classification of customers and services and for determining the applicability of rates. No rate or order of the regulatory authority shall be in conflict with the rulings of any federal regulatory body.

Sec. 38. (a) It shall be the duty of the regulatory authority to insure that every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. Rates shall not be unreasonably preferential, prejudicial, or discriminatory, but shall be sufficient, equitable, and consistent in application to each class of consumers. For ratemaking purposes, the commission [or railroad commission] may treat two or more municipalities served by a public utility as a single class wherever the commission [or railroad commission] deems such treatment to be appropriate.

(b) Rates charged or offered to be charged by a gas utility for pipeline-to-pipeline transactions and to transportation, industrial and other similar large volume contract customers, but excluding city gate sales for resale to gas distribution utilities, are deemed to be just and reasonable and otherwise to comply with this section and shall be approved by the regulatory authority if:

(1) neither the gas utility nor the customer had an unfair advantage during the negotiations; or

(2) the rates are substantially the same as rates between the gas utility and two or more such customers under the same or similar conditions of service; or
(3) competition does or did exist either with another gas utility, another
supplier of natural gas, or with a supplier of an alternative form of energy.

(c) If a complaint is filed with the railroad commission by a transmission
pipeline purchaser of gas sold or transported under any such pipeline-to-pipeline or
transportation rate, then the provisions of Subsection (b) shall not apply.

Sec. 44. Public utility rates for areas not within any municipality shall not
exceed without commission [or railroad commission] approval 115 percent of the
average of all rates for similar services of all municipalities served by the same utility
within the same county.

Sec. 63. No public utility may sell, acquire, lease, or rent any plant as an
operating unit or system in this state for a total consideration in excess of $100,000
or merge or consolidate with another public utility operating in this state unless the
public utility reports such transaction to the commission [or railroad commission]
within a reasonable time. On the filing of a report with the commission [or railroad
commission], the commission [or railroad commission] shall investigate the same
with or without public hearing, to determine whether the action is consistent with
the public interest. In reaching its determination, the commission [or railroad
commission] shall take into consideration the reasonable value of the property,
facilities, or securities to be acquired, disposed of, merged or consolidated. If the
commission [or railroad commission] finds that such transactions are not in the
public interest, the commission [or railroad commission] shall take the effect of the
transaction into consideration in the ratemaking proceedings and disallow the effect
of such transaction if it will unreasonably affect rates or service. The provisions
of this section shall not be construed as being applicable to the purchase of units of
property for replacement or to the addition to the facilities of the public utility by
construction.

Sec. 64. No public utility may purchase voting stock in another public utility
doing business in Texas, unless the utility reports such purchase to the commission
[or railroad commission].

Sec. 65. No public utility may loan money, stocks, bonds, notes, or other
evidences of indebtedness to any corporation or person owning or holding directly
or indirectly any stock of the public utility unless the public utility reports the
transaction to the commission [or railroad commission] within a reasonable time.

Sec. 67. The commission [or railroad commission] shall have jurisdiction
over affiliated interests having transactions with public utilities under the
jurisdiction of the commission [or railroad commission] to the extent of access to
all accounts and records of such affiliated interests relating to such transactions,
including but in no way limited to accounts and records of joint or general expenses,
any portion of which may be applicable to such transactions.

Sec. 68. The commission [or railroad commission] may require the disclosure
of the identity and respective interests of every owner of any substantial interest in
the voting securities of any public utility or its affiliated interest. One percent or
more is a substantial interest within the meaning of this section.

Sec. 71. Whenever it appears to the commission [or railroad commission]
that any public utility or any other person or corporation is engaged in, or is about
to engage in, any act in violation of this Act or of any order, rule, or regulation of
the commission [or railroad commission] entered or adopted under the provisions
of this Act, or that any public utility or any other person or corporation is failing
to comply with the provisions of this Act or with any such rule, regulation, or order,
the attorney general on request of the commission [or railroad commission], in
addition to any other remedies provided herein, shall bring an action in a court of
competent jurisdiction in the name of and on behalf of the commission [or railroad
commission] against such public utility or other person or corporation to enjoin the
commencement or continuation of any such act, or to require compliance with such Act, rule, regulation, or order.

Sec. 72. (a) Any public utility or affiliated interest that knowingly violates a provision of this Act, fails to perform a duty imposed on it, or fails, neglects, or refuses to obey an order, rule, regulation, direction, or requirement of the commission or decree or judgment of a court, shall be subject to a civil penalty of not less than $1,000 nor more than $5,000 for each offense.

(b) A public utility or affiliated interest commits a separate offense each day it continues to violate the provisions of Subsection (a) of this section.

(c) The attorney general shall institute suit on his own initiative or at the request of, in the name of, and on behalf of the commission, in a court of competent jurisdiction to recover the penalty under this section.

Sec. 75. If any person fails to comply with any lawful order of the commission or with any subpoena or subpoena duces tecum or if any witness refuses to testify about any matter on which he may be lawfully interrogated, the commission may apply to any court of competent jurisdiction to compel obedience by proceedings for contempt.

Sec. 76. Fines and penalties collected under this Act in other than criminal proceedings shall be paid to the commission and paid by the commission to the state treasury to be placed in the general revenue fund.

SECTION. Rules and orders of the railroad commission adopted under the Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) and in effect September 1, 1983, remain in effect until changed under the Gas Utility Regulatory Act.

The amendment was adopted without objection.

HB 593, as amended, was passed.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Wright on motion of Schlueter.

HJR 105 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment,

HJR 105, A joint resolution proposing a constitutional amendment to replace the limitation on the value of an urban homestead with a limitation based on size.

The resolution was read second time.

Representative T. Smith offered the following amendment to the resolution:

Add a new Section 2:

This amendment applies to all homesteads in this state, including homesteads acquired before the adoption of this amendment.

Renumber Section 2 as Section 3.

The amendment was adopted without objection.

A record vote was requested.
HJR 105, as amended, was adopted by (Record 168): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Coody; Crockett; Danburg; Davis; DeLay; Denton; Eckels; Edwards; Emmett; English; Evans, C.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hellen; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Hoon; Hudson, D.; Hudson, S.; Jackson; Jones; Keller; Kemp; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Peveto; Pierce; Polk; Polombo; Presnal; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Turner; Uher; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word.

Present, not voting — Mr. Speaker(C); Khoury.

Absent, Excused — Criss; Eikenburg; Evans, L.; Hurry; Price; Tow; Wright.

Absent — Delco; Pennington.

**HB 2 ON THIRD READING**

The speaker laid before the house on its third reading and final passage,

HB 2, A bill to be entitled An Act relating to the enforcement of court-ordered child support.

The bill was read third time and was passed. (J. Gibson recorded voting yes)

**HB 369 ON THIRD READING**

The speaker laid before the house on its third reading and final passage,

HB 369, A bill to be entitled An Act relating to the creation of a farm and ranch finance program.

The bill was read third time and was passed. (Ceverha and A. Smith recorded voting no)

**HB 555 ON THIRD READING**

The speaker laid before the house on its third reading and final passage,

HB 555, A bill to be entitled An Act relating to the location of annexation hearings conducted by a city.

The bill was read third time and was passed.

**HB 741 ON THIRD READING**

The speaker laid before the house on its third reading and final passage,

HB 741, A bill to be entitled An Act relating to the deadline for filing an application for a place on a primary election ballot.

The bill was read third time and was passed.
HB 1148 ON THIRD READING
The speaker laid before the house on its third reading and final passage,

HB 1148, A bill to be entitled An Act relating to the qualifications of the presiding judge and the clerks serving at a central counting station.

The bill was read third time and was passed.

HB 1445 ON THIRD READING
The speaker laid before the house on its third reading and final passage,

HB 1445, A bill to be entitled An Act relating to the assessment of administrative penalties by the Railroad Commission of Texas to enforce certain laws within its jurisdiction.

The bill was read third time and was passed.

HB 242 ON SECOND READING
The speaker laid before the house on its second reading and passage to engrossment,

HB 242, A bill to be entitled An Act relating to the status of adult probation department personnel as state employees for certain purposes.

The bill was read second time and was passed to engrossment.

HB 894 ON SECOND READING
The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 894.

CSHB 894

A BILL TO BE ENTITLED
AN ACT
relating to fees imposed and collected by state agencies.

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

SECTION 1. LEGISLATIVE FINDING AND INTENT. (a) The Legislature finds, that to ensure the efficient operation of state agencies and institutions of higher education and to allow for the assessment of fees adequate to reimburse the state for the costs of state services and regulatory functions, that it will be in the public interest to provide for the adjustment of state fees by the Legislature within the General Appropriations Act. It is the intent of the Legislature that fees be adjusted biennially within the General Appropriations Act in a manner which provides for the recovery of any increased costs to the state resulting from the performance of services and functions for which a fee is levied. It is the intent of the Legislature that to the extent that Senate and House rules allow, each substantive committee shall retain jurisdiction over any adjustment in fees as part of the appropriations process.

(b) Any increase in the amount of a fee made pursuant to this Act shall be for the purpose of recovering, on an annual basis, the costs to the state agency or institution of higher education increasing the fee. Where fee amounts are increased on a percentage basis, fee amounts may be rounded to the nearest whole dollar.

SECTION 2. This Act applies to all fees not set by the Constitution of the State of Texas, but shall not apply to fees that are dedicated to pay bonded indebtedness. The General Appropriations Act may not specify the amount of a fee unless imposition of that fee is authorized by general law.
SECTION 3. (a) The amount of a fee, as covered in this Act is the amount specified for that fee in the General Appropriations Act, however, for the fiscal years beginning September 1, 1983 and September 1, 1984, the amount of a fee specified in the General Appropriations Act shall not exceed by more than one hundred percent the maximum amount of the fee set in general law. Subsequent to August 31, 1985, fee adjustments authorized through the General Appropriations Act shall be for the purpose of offsetting inflationary impacts. If a board of regents has the authority to establish a fee that falls within a statutory range, the amounts set under this Act shall constitute only the maximum amount for those fees.  

(b) A law that specifies the amount of a fee subject to this Act is suspended to the extent that it conflicts with the amount of the fee specified in the General Appropriations Act.  

c) If the General Appropriations Act does not specify the amount of the fee, the fee is the amount specified by law.  

SECTION 4. This Act shall not apply to fees that are adjusted on the basis of a client’s income.  

SECTION 5. This Act is effective on passage.  

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.  

CSHB 894 was read second time.  

Representative Presnal offered the following amendment to CSHB 894:  

Amend CSHB 894, by deleting SECTION 4 and SECTION 5 on lines 23 through 25, page 2, and renumber SECTION 6 as SECTION 4.  

The amendment was adopted without objection.  

Representative A. Moreno offered the following amendment to CSHB 894:  

Amend CSHB 894, on page 1, line 6 by striking the words, “and institutions of higher education” and on page 1, lines 21 and 22, by striking the words, “or institution of higher education” and on page 2, line 2 by inserting between the word “Texas” and the comma the following words, “except fees collected by institutions of higher education”  

(Colbert in the chair)  

Representative Presnal moved to table the A. Moreno amendment.  

A record vote was requested.  

The motion to table prevailed by (Record 169): 91 Yeas, 46 Nays, 1 Present, not voting.  

Yeas — Agnich; Arnold; Blanton; Bomer; Buchanan; Burnett; Cary; Ceverha; Clark; Clemons; Connell; Craddock; Davis; DeLay; Eckels; Emmett; Evans, C.; Finnell; Fox; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Green; Haley; Hall, L.; Hall, T.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Jackson; Jones; Keller; Khoury; Kubiak; Kuep; Laney; Lee, D.; Leonard; McKenna; McWilliams; Madia; Mankins; Messer; Millsap; Patrick; Patterson; Pennington; Peveto; Pierce; Polumbo; Presnal; Robinson; Robnett; Rudd; Russell; Salinas; Schluter; Schoolcraft; Shaw; Shea; Short; Simpson;...
MESSAGE FROM THE SENATE

Austin, Texas, April 14, 1983

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

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

Local and Uncontested Calendar

SCR 40 by Whitmire, creating a joint interim committee to study the state role in providing housing for moderate and low-income persons.

SCR 46 by Harris, giving Titan Group, Inc., permission to sue Trinity River Authority of Texas for breach of contract.

SCR 49 by Harris, granting Mark Homes, Inc., permission to sue the state.

SCR 51 by Truan, granting Jose R. Villarreal permission to sue the state.

SCR 52 by Truan, granting Gwendolyn P. Johnson permission to sue the state.

SCR 55 by Lyon, in memory of E. W. Rowland.

SB 257 by Farabee, relating to the authority of the Commissioners Court of Wichita County.

SB 291 by Mauzy, relating to the time a claim for compensation shall be made under the Workers’ Compensation Act; and declaring an emergency.

SB 292 by Mauzy, relating to the reduction of certain workers’ compensation death benefits.

SB 311 by Mauzy, relating to benefits under a compromise settlement agreement or provided in an agreed judgment approved by the court.

SB 439 by Mauzy, relating to the adoption of the Uniform Child Custody Jurisdiction Act.

SB 516 by Montford, relating to the authority of the board of regents of Texas Tech University to purchase certain land in El Paso County.

SB 517 by Montford, relating to the powers and duties of the board of regents of Texas Tech University and the Texas Tech University Health Sciences Center.

SB 590 by Sims, relating to the creation of the Sterling County Underground Water Conservation District.

SB 657 by Whitmire, relating to the annual financial report filed by the Texas Board of Health.

SB 688 by Santiesteban, relating to the use of tetrahydrocannabinols and their derivatives for therapeutic and research purposes.
SB 697 by Sarpalius, relating to the coordinating board approval of certain construction, repair, or rehabilitation projects at institutions of higher education.

SB 781 by Mauzy and Lyon, relating to the magistrates appointed by the judges of the district courts of Dallas County.

SB 800 by Traeger, relating to the authority of a city or town to make a contract with a conservation and reclamation district for the purchase of hydroelectric power or energy.

SB 864 by Lyon, relating to attorney's fees in certain worker's compensation death cases.

SB 875 by Jones, relating to the creation and jurisdiction of the County Court at Law No. 2 of Taylor County.

SB 892 by Montford, relating to security personnel of the Texas Tech University Health Sciences Center.

SB 893 by Montford, relating to the authority of the board of regents of the Texas Tech University Health Sciences Center.

SB 894 by Montford, relating to the conveyance of certain state-owned real property in Lubbock County.

SB 897 by Caperton, relating to the authority of the comptroller to charge bingo licensees an audit or investigation fee.

SB 960 by McFarland, relating to contracts, leases, and other arrangements for the use and occupancy of airport property entered into by joint boards under the Municipal Airports Act.

SB 1006 by Mauzy, relating to coverage of certain state employees working outside of the state.

SB 1062 by Whitmire, relating to the counties in the First and Fourteenth Supreme Judicial Districts.

SB 1064 by Uribe, relating to the prevention, reporting and control of communicable diseases.

SB 1221 by Blake, relating to certain state purchase vouchers and invoices and to certain powers and duties of the State Purchasing and General Services Commission and of the comptroller.

SB 1224 by Sims, relating to establishment of a juvenile board in Culberson and Hudspeth counties.

SB 1226 by Caperton, relating to the periodic review of certain state agencies under the Texas Sunset Act.

SB 1245 by Jones, relating to the conduct and financing of governor for a day and speaker's day ceremonies.

SB 1270 by Farabee, relating to the name and the powers and duties of the Greater Texoma Utility Authority.

Respectfully,
Betty King
Secretary of the Senate

CSHB 894 - (consideration continued)

Representative Barrientos offered the following amendment to CSHB 894:

Amend CSHB 894 on page 1, line 18, by adding the following sentence:

“For the purposes of this Act, the term ‘fee’ does not include tuition at institutions of higher education.”

Representative Presnal moved to table the Barrientos amendment.

A record vote was requested.

The motion to table prevailed by (Record 170): 74 Yeas, 63 Nays, 1 Present, not voting.
Yeas — Agnich; Arnold; Blanton; Bomer; Buchanan; Bush; Ceverha; Clark; Clemons; Connelly; Craddick; DeLay; Eckels; Emmett; Evans, C.; Finnell; Fox; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Grisham; Hall, L.; Hall, T.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hightower; Hilbert; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Jackson; Jones; Keller; Khoury; Kuempel; Laney; Lee, D.; Leonard; McWilliams; Mankins; Millsap; Patterson; Pennington; Peveo; Pierce; Presnal; Robinson; Robnett; Rudd; Schlueter; Schoolcraft; Shea; Simpson; Stiles; Sutton; Thompson, G.; Toomey; Turner; Uher; Vowell; Waldrop; Whaley; Wieting; Willis; Wolens; Word.

Nays — Armbrister; Barrientos; Barton, B.; Barton, E.; Berlanga; Burnett; Cain; Carriker; Cary; Cavazos; Colbert(C); Collazo; Coody; Crockett; Danburg; Davis; Denton; Edwards; English; Gamez; Gandy; Garcia, A.; Glossbrenner; Granoff; Green; Hackney; Haley; Hall, W.; Hernandez; Hill, A.; Hill, G.; Hudson, S.; Kemp; Kubiak; Lee, E. F.; Luna; McKenna; Madla; Martinez, R.; Martinez, W.; Messer; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patroneila; Polk; Polumbo; Ragsdale; Range; Russell; Salinas; Shaw; Short; Smith, T.; Staniswalis; Tejeda; Thompson, S.; Valles; Wallace; Watson; Wilson.

Present, not voting — Mr. Speaker.

Absent, Excused — Criss; Eikenburg; Evans, L.; Hury; Price; Tow; Wright.

Absent — Delco; Patrick; Saunders; Smith, A.; Smith, C.

CSHB 894, as amended, was passed to engrossment. (W. Martinez, Cavazos, Gandy, B. Barton, R. Martinez, A. Moreno, W. Hall, Salinas, Barrientos, E. Barton, Watson, Glossbrenner, and Oliver recorded voting no)

HB 706 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment,

HB 706, A bill to be entitled An Act relating to the issuance of daily temporary mixed beverage permits.

The bill was read second time and was passed to engrossment. (Patterson, Clemens, Collazo, Schlueter, Bush, Wieting, Hollowell, Clark, and J. Gibson recorded voting no)

HB 832 - POSTPONED

Representative Millsap moved that consideration of HB 832 be postponed until Wednesday, April 20, at 10 a.m.

The motion prevailed without objection.

HB 1487 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment,

HB 1487, A bill to be entitled An Act relating to procedures for the consideration and adoption of certain rules and rates specified in Chapter 5, Insurance Code.

The bill was read second time.

Representative A. Smith offered the following committee amendment to the bill:
COMMITTEE AMENDMENT NO. 1

Amend HB 1487 on page 1, line 13 by adding "rating plans," after the word "rules."

Committee Amendment No. 1 was adopted without objection.

HB 1487, as amended, was passed to engrossment. (Bush recorded voting no)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Saunders on motion of DeLay.

HR 259 - ADOPTED

Representative C. Evans moved that all necessary rules be suspended to take up and consider at this time, HR 259.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By C. Evans:

HR 259, Wishing Ron Hinkle a happy birthday.

The resolution was read and was adopted without objection.

On motion of Representative W. Hall, the names of all the members of the house were added to HR 259 as signers thereof.

HR 227 - ADOPTED

Representative G. Hill moved that all necessary rules be suspended to take up and consider at this time, HR 227.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By G. Hill:

HR 227, Recognizing the week of April 11 through 15, 1983, as "Exceptional Children's Week."

The resolution was adopted without objection.

HB 562 - RULES SUSPENDED

Representative Haley moved to suspend the 5-day posting rule to allow the Committee on Public Education to consider HB 562.

The motion prevailed without objection.

HCR 141 - RULES SUSPENDED

Representative Wieting moved to suspend the 5-day posting rule to allow the Committee on Agriculture and Livestock to consider HCR 141.

The motion prevailed without objection.

HR 261 - ADOPTED

Representative Collazo moved that all necessary rules be suspended to take up and consider at this time, HR 261.
The motion prevailed without objection.

The chair laid before the house the following resolution:

By Price, et al.:

HR 261, Commending the Texas Employment Commission.

The resolution was adopted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Business and Commerce, Subcommittee on HB 1682, on adjournment today, Desk 90, to consider HB 1682.

State Affairs, Subcommittee on HB 137, on adjournment today, back hall, to consider HB 137.

Labor and Employment Relations, Subcommittee on HB 696, on adjournment today, Desk 113, to consider HB 696.

Energy, Subcommittee on HB 756, on adjournment today, Desk 109, to consider HB 756.

Transportation, Subcommittee on HB 1114, on adjournment today, Desk 61, to consider HB 1114.

Energy, Subcommittee on HB 1638, on adjournment today, Desk 114.

Local and Consent Calendars, originally scheduled for adjournment today, will meet on adjournment Monday, Room G-14, Capitol building.

Appropriations, 2 p.m. today, Room 309, Capitol building, to consider HB 409.

Law Enforcement, Subcommittee on HB 1690, 10:30 a.m. Monday, Room 150-B, to consider HB 1690.

State Affairs, Subcommittee on HB 1091, on adjournment today, Desk 7, to consider HB 1091.

State Affairs, Subcommittee on HB 661, on adjournment today, Desk 7, to consider HB 661.

ADJOURNMENT

Representative Stiles moved that the house adjourn until 2 p.m. Monday.

The motion prevailed without objection.

The house accordingly, at 12:51 p.m., adjourned until 2 p.m. Monday.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees on bills and resolutions, as follows:

Business and Commerce - HB 283, HB 423, HB 1010, HB 1112, HB 1134, HB 1409, HB 1438, HB 1849, HB 2002, HB 2158, HCR 97, SB 658
Criminal Jurisprudence - HB 171, HB 223, HB 224, HB 382, HB 838, HB 852, HB 1208, SB 83, SB 108, SB 302
Elections - HB 4, HB 1269, HB 1293, HB 1818, SB 664, SB 989
Insurance - HB 4, HB 1269, HB 1293, HB 1818, SB 664, SB 989
Judicial Affairs - HB 1507, HB 1659, SCR 7, SCR 30, SCR 44
Public Education - HB 715, HB 1147, HB 1538
Urban Affairs - HB 1187, HB 1304, HB 1391, HB 1483, HB 1874, HB 1925, HB 2009

ENGROSSED
April 13 - HB 604, HB 665, HB 872, HB 1229, HJR 1

ENROLLED
April 13 - HB 1352

SENT TO THE GOVERNOR
April 14 - HB 1352

COAUTHORS AUTHORIZED
The following members were granted permission by the authors to sign bills and resolutions as coauthors:

HB 369 - Schlueer
HB 815 - Jackson
HB 977 - Jackson
HB 1230 - Jackson
HB 2316 - Jackson
HB 2344 - R. Martinez
HJR 24 - Schlueer
HR 261 - Collazo, Stiles