The house met at 2 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 327).

Present — Mr. Speaker; Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomier; Buchanan; Burnett; Bush; Cain; Carrick; Cary; Cavazos; Ceceha; Clark; Clemens; Colbert; Collazo; Connelly; Coody; Craddock; Criss; Crockett; Danburg; Davis; DeLay; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Finnells Fox; Gages; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Haley; Hall, T.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hernandez; Heightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hurley; Jones; Keller; Kemp; Khoary; Kubiak; Kuempel; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madia; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker, Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robinson; Robnett; Rudder; Russell; Salinas; Saunders; Schlueter; Schrock; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Tejeda; Thompson, G.; Thompson, S.; Toomey; Turner; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

Absent, Excused — Hackney; Hall, L.; Sutton; Tow.

Absent — Hall, W.; Jackson; Laney; Uher.

The invocation was offered by Reverend Dermot N. Brosnan, President-Executive Director, The Patrician Movement of the Catholic Church, San Antonio, Texas, as follows:

Almighty and eternal God, Creator, and Lord of all things, Supreme Legislator from whom all power flows and in whose name those whose mission it is to legislate determine what is just and unjust as a reflection of divine wisdom: we, upon whom rests the load of a grave responsibility, central to the state, implore your help as legislators to carry out an office which we accept and hope to execute for the greater spiritual and material good of our people.

Grant us, Lord, the sense of duty that we may spare no preparation or effort to achieve this end, as well as the objectivity and realism clearly to perceive what is best at all times. Do not allow us to depart from the impartiality necessary to seek out the common good in all justice; and may we never lack in loyalty to our own people, in faith in the principles we openly profess, and in the elevation of the spirit necessary to maintain ourselves above the dangers of corruption and evil interests.

Let our deliberations be serene, with no other passion than that inspired by a holy thirst for the truth; grant that our resolutions be in conformity with your precepts, even when the service of your will would impose upon us renunciations and sacrifice.
Hear us, O Lord, that our minds may never lack your light, nor our wills your strength, nor our hearts the warmth of your charity, which loves our people with such tenderness. Amen.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for today because of important business:

L. Hall on motion of C. Smith.
Sutton on motion of Pierce.
Hackney on motion of R. Martinez.

The following member was granted leave of absence temporarily for today because of state business:

Tow on motion of B. Gibson.

BILLS AND A RESOLUTION SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and a resolution:

SCR 102, SB 36, SB 222, SB 234, SB 262, SB 281, SB 427, SB 460, SB 582, SB 636, SB 1100

HOUSE AT EASE

At 2:26 p.m., the speaker announced that the house would stand at ease.

(Speaker pro tempore in the chair)

(W. Hall now present)

The chair called the house to order at 2:38 p.m.

MESSAGE FROM THE SENATE

Austin, Texas, May 9, 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 refused to concur in House Amendments to SB 179 and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Senators Jones, Brooks, Farabee, Traeger, Howard

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to SB 122 by viva voce vote; SB 319 by 22 yeas 6 nays; SB 341 by 30 yeas 0 nays.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to SB 244 and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Senators Washington, Mauzy, Doggett, Vale, McFarland
May 9, 1983

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

**SCR 103** by Brooks, saluting the Texas Senior Games for Fun and Fitness.

**HB 164** by Keller, relating to the civil jurisdiction of county courts and justice courts.

**HB 1121** by Schlueter, et al., relating to the tabulation of unofficial returns in certain races by the secretary of state and to the time for convening political party precinct conventions.

Respectfully,
Betty King
Secretary of the Senate

(Speaker in the chair)

**RESOLUTIONS REFERRED TO COMMITTEES**

The following resolutions were laid before the House and referred to committees:

By L. Hall:

**HCR 198**, Memorializing Congress to adopt legislation creating a national commission to study neurofibromatosis.

To Committee on Public Health.

By Barrientos:

**HCR 214**, Granting Alonzo Benavides permission to sue the state.

To Committee on Judicial Affairs.

By C. Evans:

**HCR 215**, Declaring the month of May, 1983, to be American Airlines Month.

To Committee on Rules and Resolutions.

By Delco:

**HCR 216**, Creating the Job Training and Employment Monitoring Committee.

To Committee on House Administration.

By English:

**HCR 217**, Granting Juanita Coker permission to sue the state.

To Committee on Judicial Affairs.

By Danburg:

**HCR 218**, Memorializing Congress to again propose for ratification an Equal Rights Amendment to the United States Constitution.

To Committee on State Affairs.

By C. Evans:

**HCR 219**, Providing for Sine Die.

To Committee on House Administration.

By Fox:

**HCR 220**, Commending the Honorable John G. Morrison.

To Committee on Rules and Resolutions.

By T. Smith:

**HCR 221**, Granting Patricia Coleman, David Cooper, Kevin Cooper, and Dennis Lehman permission to sue the state.

To Committee on Judicial Affairs.
By Hightower:
HCR 222, Granting Howard Daniels, Jr., permission to sue the state.
To Committee on Judicial Affairs.

By G. Thompson:
HCR 223, Creating a special interim committee to study county government.
To Committee on County Affairs.

By Kuempel:
HCR 224, Commending Mrs. Jane Weinert Blumberg.
To Committee on Rules and Resolutions.

By Geistweidt, et al.:
HCR 225, Honoring Carroll Abbott.
To Committee on Rules and Resolutions.

By D. Lee:
HCR 226, Congratulating Ned and Betty Lollar.
To Committee Rules and Resolutions.

By G. Hill:
HCR 227, Granting Southern Union Gas Company permission to sue the state.
To Committee on Judicial Affairs.

By Leonard:
HCR 228, Providing for Sine Die at 12:00 midnight, May 30, 1983.
To Committee on House Administration.

By W. Hall:
HCR 229, Granting Southern States Exploration, Inc., permission to sue the state.
To Committee on Judicial Affairs.

By W. Hall:
HCR 230, Granting Maria G. Gonzalez, Gutierrez Gonzalez Venture, Ltd., permission to sue the state.
To Committee on Judicial Affairs.

By Crockett:
HCR 231, Commending the 1982-83 Pearsall High School Maverick Band.
To Committee on Rules and Resolutions.

By W. Martinez:
HCR 232, Granting Lucy Sheldon and August Sheldon, individually, and Lucy Sheldon as administratrix of the estate of Ann Mae Sheldon permission to sue the state.
To Committee on Judicial Affairs.

By Wallace, et al.:
HCR 236, Proposing that the Houston Metropolitan Transit Authority purchase buses manufactured in this state.
To Committee on Transportation.

By Arnold:
HCR 237, Congratulating the city of Midlothian.
To Committee on Rules and Resolutions.
By Waldrop:
HCR 238, Granting John B. McDonald, Jerry Calhoun, J. Christopher Kolstad, Bobby Reed, and Joe Cannon permission to sue the state.
To Committee on Judicial Affairs.

By Russell:
HCR 239, Congratulating Mrs. Becky Brooks.
To Committee on Rules and Resolutions.

By Polk, et al.:
HR 292, Inviting Robert A. Caro to address the House of Representatives.
To Committee on House Administration.

By J. Gibson:
HR 314, Amending Rule 14, Section 9, of the Rules of the House of Representatives.
To Committee on Rules and Resolutions.

By Finnell:
HR 324, Opposing the enactment of any federal law which would regulate in any way the administration of state and local retirement systems.
To Committee on Retirement and Aging.

By B. Barton:
HR 325, Congratulating the First Baptist Church of Blanco.
To Committee on Rules and Resolutions.

By Finnell:
HR 326, Opposing the enactment of any federal law which would regulate the administration of state and local retirement systems and plans.
To Committee on Retirement and Aging.

By Finnell:
HR 327, Commending Parkinson's disease societies and support groups throughout the state for their dedication and commitment to increasing public awareness and to providing vital support and services to those affected by this disabling disease.
To Committee on Public Health.

By Bush:
HR 329, Commending the Locust Community Volunteer Fire Department.
To Committee on Rules and Resolutions.

By Armbrister:
HR 330, Memorializing Congress to initiate development of a beam-weapon system of missile defense.
To Committee on State Affairs.

By C. Evans:
HR 331, Honoring United States Marshal Clinton Thomas Peoples.
To Committee on Rules and Resolutions.

By Denton:
HR 333, In memory of Louis Gonzales, Sr.
To Committee on Rules and Resolutions.

By Eckels:
HR 335, Congratulating Lauren Kate Howard.
To Committee on Rules and Resolutions.
By Oliveira:
HR 337, Congratulating the Oliveira Intermediate School Symphonic Band.
To Committee on Rules and Resolutions.

By Madla:
HR 339, Creating a special interim committee to study alcohol addiction and abuse among women.
To Committee on Public Health.

By Finnell:
HR 340, Recognizing the Holliday Chamber of Commerce and the city of Holliday.
To Committee on Rules and Resolutions.

By Jones, et al.:
HR 341, Commending the Country Club Optimist Club of El Paso.
To Committee on Rules and Resolutions.

By Patronella:
HR 342, Commending Robert Pulido, Jr.
To Committee on Rules and Resolutions.

By McWilliams:
HR 343, Congratulating the Overton High School Mustang Band.
To Committee on Rules and Resolutions.

By W. Harrison:
HR 345, Commending the one-act play cast and director Karen McIntire representing Port Aransas High School.
To Committee on Rules and Resolutions.

By English:
HR 346, Congratulating Harold and Louise Patterson.
To Committee on Rules and Resolutions.

By Arnold:
HR 350, Congratulating the Forney High School Band.
To Committee on Rules and Resolutions.

By Bush:
HR 351, Recognizing July 16, 1983, as “Atomic Veterans Day” in Texas.
To Committee on State Affairs.

By Shea:
HR 352, Requesting the Central Education Agency and the Bureau of Maternal and Child Health of the Texas Department of Health to increase promotion of voluntary postural screening programs.
To Committee on Public Health.

By Granoff:
HR 353, In memory of Ronald D. Baker.
To Committee on Rules and Resolutions.

By Granoff:
HR 354, Inviting the Right Honorable George C. Price to address the house.
To Committee on House Administration.
By Granoff:
HR 355, Directing the Industrial Accident Board to construe the Workers' Compensation Act in favor of the injured worker.
To Committee on Business and Commerce.

By McWilliams:
HR 356, Congratulating Wiley College.
To Committee on Rules and Resolutions.

(Laney and Jackson now present)
SCR 65, Granting William E. Anderson permission to sue the state.
To Committee on Judicial Affairs.

SCR 66, Relating to adopting the definition of autism and other pervasive developmental disorders as stated in the third edition of the Diagnostic and Statistical Manual.
To Committee on Public Health.

SCR 67, Relating to developing rules ensuring the coordination of identification, diagnosis, referral, evaluation, training, and education within a continuum of services to persons with autism or other pervasive developmental disorders.
To Committee on Public Health.

SCR 68, Requiring Individual Educational Plans for students with autism or other pervasive developmental disorders.
To Committee on Public Education.

SCR 69, Relating to directing the Texas Rehabilitation Commission, the Central Education Agency, and the Texas Department of Mental Health and Mental Retardation to develop jointly a written plan and interagency agreement addressing vocational training program standards, vocational program evaluation guidelines, and a continuum of vocational services for persons having autism.
To Committee on Public Health.

SCR 70, Relating to developing state licensing standards for residential facilities serving adult persons having autism or other pervasive developmental disorders.
To Committee on Public Health.

SCR 71, Directing the Central Education Agency and the Texas Department of Mental Health and Mental Retardation to develop jointly training program standards and curriculum guidelines for families whose relatives have autism or other pervasive developmental disorders.
To Committee on Public Health.

SCR 72, Relating to including persons with autism or other pervasive developmental disorders in existing respite care services.
To Committee on Public Health.

SCR 77, Granting Howard Daniels, Jr., permission to sue the state.
To Committee on Judicial Affairs.

SCR 82, Directing the Texas Department of Human Resources to establish a family violence advisory group to assist the staff and the department in its decision-making and planning efforts regarding the Family Violence Program.
To Committee on Human Services.
SCR 83, Directing the Texas Department of Human Resources to conduct demonstration projects, as resources allow, to assist family violence centers in developing, expanding, or upgrading services responsive to the developmental and psychosocial needs of the children residing in the shelters.
To Committee on Human Services.

SCR 84, Directing the Texas Department of Human Resources to implement program models, as resources allow, designed to improve the delivery of services to victims of family violence in geographically isolated and underserved areas of the state.
To Committee on Human Services.

SCR 85, Directing the Texas Department of Human Resources to pursue, as resources allow, activities designed to heighten public awareness of the magnitude and dynamics of spouse abuse and abuse of the elderly.
To Committee on Human Services.

SCR 86, Directing the Texas Department of Human Resources to study the feasibility of establishing a statewide, toll-free information, referral, and reporting system to provide assistance to persons involved in or responding to spouse or elder abuse.
To Committee on Human Services.

SCR 87, Directing the Texas Department of Human Resources to examine existing programs for batterers, to analyze the effectiveness of such programs, and to pilot such models, as resources allow, on a demonstration basis.
To Committee on Human Services.

SCR 88, Directing the Texas Commission on Law Enforcement Officer Standards and Education to organize a subject area on family violence in its mandatory basic law enforcement training for all peace officers.
To Committee on Law Enforcement.

SCR 89, Directing the Governor's Criminal Justice Division to initiate continuing education programs on family violence for criminal justice professionals.
To Committee on Criminal Jurisprudence.

HOUSE BILLS ON FIRST READING

The following house bills were today laid before the house, read first time and referred to committees:

By Connelly:

HB 2401, A bill to be entitled An Act creating and establishing a conservation and reclamation district under Article XVI, Section 59, Constitution of Texas, to be known as "Harris County Municipal Utility District No. 233, of Harris County, Texas," and declaring the district a governmental agency, and a body corporate and politic; defining the boundaries; finding the field notes and boundaries form a closure, and related matters; finding benefit to all property within the district; conferring on the district the rights, powers, privileges, authority, and functions of the general laws of Texas applicable to municipal utility districts created under Chapter 54, Title 4, Water Code, where not in conflict with this Act, and adopting same by reference; providing for appointment of the first directors of the district, and for qualifications of directors and the filling of vacancies; providing for terms and elections of directors, and related matters; finding and declaring that the requirements of Article XVI, Section 59(d) and Section 59(e), Constitution of Texas, have been performed and accomplished; enacting other provisions relating
to the above-mentioned subjects; providing a severability clause; and declaring an emergency.

To Committee on County Affairs.

By P. Hill:

HB 2402, A bill to be entitled An Act providing for the establishment by cities of drainage utility systems; defining such drainage systems as public utilities; prescribing bases for levy of a drainage fee; enacting other provisions relating to the subject; and declaring an emergency.

To Committee on Natural Resources.

HB 2403 was read first time and referred to Committee on Natural Resources on May 3, 1983.

By Hanna:

HB 2404, A bill to be entitled An Act relating to establishment of a juvenile board in Shackelford County.

To Committee on County Affairs.

By Presnal:

HB 2405, A bill to be entitled An Act relating to separate municipal and rural electric systems owned by cities; amending Article 1110b, Vernon's Texas Civil Statutes, so as to permit a merger of said systems; declaring the applicable law after any such merger; and providing an effective date.

To Committee on Urban Affairs.

By Finnell:

HB 2406, A bill to be entitled An Act relating to the establishment and powers of a juvenile board in the 46th Judicial District, composed of Wilbarger, Foard, and Hardeman counties.

To Committee on County Affairs.

By Finnell:

HB 2407, A bill to be entitled An Act relating to the establishment and powers of a juvenile board in 50th Judicial District, composed of Baylor, Cottle, King and Knox counties.

To Committee on County Affairs.

By Finnell:

HB 2408, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Foard County Hospital District.

To Committee on County Affairs.

By Carriker:

HB 2409, A bill to be entitled An Act relating to establishment of a juvenile board in Lynn County.

To Committee on County Affairs.

By Carriker:

HB 2410, A bill to be entitled An Act relating to establishment of a juvenile board in Jones County.

To Committee on County Affairs.

By Carriker:

HB 2411, A bill to be entitled An Act relating to establishment of a juvenile board in Garza County.

To Committee on County Affairs.
By Hightower:
HB 2412, A bill to be entitled An Act relating to the juvenile boards in the 12th Judicial District.
To Committee on County Affairs.

HB 2413 was read first time and referred to Committee on Natural Resources on May 5, 1983.

By Uher:
HB 2414, A bill to be entitled An Act relating to the creation of a seawall commission in Matagorda County.
To Committee on County Affairs.

By D. Lee:
HB 2415, A bill to be entitled An Act relating to the grant of a preference in the purchase of products by governmental bodies.
To Committee on State Affairs.

By Stiles:
HB 2416, A bill to be entitled An Act relating to the creation, administration, powers, duties, and financing of the Broussard Sewage District.
To Committee on Natural Resources.

By Stiles:
HB 2417, A bill to be entitled An Act relating to the creation, administration, powers, duties, and financing of the Fannett Sewage District.
To Committee on Natural Resources.

By Stiles:
HB 2418, A bill to be entitled An Act relating to the creation, administration, powers, duties, and financing of the Hillebrandt Sewage District.
To Committee on Natural Resources.

By Stiles:
HB 2419, A bill to be entitled An Act relating to the creation, administration, powers, duties, and financing of the North Cheek Sewage District.
To Committee on Natural Resources.

By Stiles:
HB 2420, A bill to be entitled An Act relating to the creation, administration, powers, duties, and financing of the South Cheek Sewage District.
To Committee on Natural Resources.

By Stiles:
HB 2421, A bill to be entitled An Act relating to the creation, administration, powers, duties, and financing of the North LaBelle Sewage District.
To Committee on Natural Resources.

By Stiles:
HB 2422, A bill to be entitled An Act relating to the creation, administration, powers, duties, and financing of the South LaBelle Sewage District.
To Committee on Natural Resources.

HB 2423 was read first time and referred to Committee on Elections on May 4, 1983.
By Valles:

HB 2424, A bill to be entitled An Act relating to exemption from sales and use tax for certain commercial uses of gas and electricity.
To Committee on Ways and Means.

By Shea, et al.:

HB 2425, A bill to be entitled An Act relating to the reorganization, boundaries, administration, powers, duties, and financing of Dallas County Municipal Utility District No. 2, the change of name of that district to Dallas County Flood Control District No. 1, and the validation of certain actions of and matters relating to that district.
To Committee on County Affairs.

HB 2426 was read first time and referred to Committee on Natural Resources on May 5, 1983.

HB 2427 was read first time and referred to Committee on Natural Resources on May 5, 1983.

By T. Hall:

HB 2428, A bill to be entitled An Act relating to the creation, administration, powers, duties, functions, operations, and financing of the Argyle Municipal Utility District.
To Committee on County Affairs.

By Hinojosa:

HB 2429, A bill to be entitled An Act amending Chapter 623, Acts of the 61st Legislature, Regular Session, 1969, relating to the Rio Grande Valley Municipal Water Authority, deleting certain restrictions upon said authority, to-wit, the power to divert, impound, store, treat or transport water for agricultural purposes, and providing water rights from the Rio Grande River; providing for severability of the Act; and declaring an emergency.
To Committee on Natural Resources.

By Schlueter:

HB 2430, A bill to be entitled An Act relating to hunting on or near Stillhouse Hollow Reservoir in Bell County.
To Committee on Environmental Affairs.

By Hightower:

HB 2431, A bill to be entitled An Act relating to the boundaries of the Livingston Hospital District of Polk County, Texas, and validating the district and certain actions, proceedings, and elections of that district.
To Committee on County Affairs.

By Russell:

HB 2432, A bill to be entitled An Act relating to establishment of a juvenile board in Camp, Marion, Morris, and Titus counties.
To Committee on County Affairs.

SENATE BILLS ON FIRST READING

The following senate bills were today laid before the house, read first time and referred to committees:

SB 200 to Committee on Liquor Regulation.

SB 226 to Committee on Public Education.

SB 303 to Committee on Transportation.
SB 306 to Committee on Elections.
SB 342 to Committee on Business and Commerce.
SB 381 to Committee on Public Health.
SB 471 to Committee on County Affairs.
SB 480 to Committee on Regions, Compacts, and Districts.
SB 483 to Committee on Retirement and Aging.
SB 563 to Committee on Criminal Jurisprudence.
SB 583 to Committee on Public Health.
SB 635 to Committee on State Affairs.
SB 656 to Committee on Retirement and Aging.
SB 732 to Committee on County Affairs.
SB 733 to Committee on Natural Resources.
SB 738 to Committee on Ways and Means.
SB 799 to Committee on Higher Education.
SB 801 to Committee on Public Health.
SB 809 to Committee on Public Education.
SB 818 to Committee on Public Health.
SB 866 to Committee on Agriculture and Livestock.
SB 872 to Committee on Judiciary.
SB 910 to Committee on Law Enforcement.
SB 923 to Committee on State Affairs.
SB 926 to Committee on State Affairs.
SB 948 to Committee on Insurance.
SB 974 to Committee on Ways and Means.
SB 975 to Committee on Ways and Means.
SB 978 to Committee on Ways and Means.
SB 980 to Committee on Ways and Means.
SB 981 to Committee on Ways and Means.
SB 1033 to Committee on County Affairs.
SB 1036 to Committee on Natural Resources.
SB 1047 to Committee on Public Health.
SB 1053 to Committee on State Affairs.
SB 1076 to Committee on Agriculture and Livestock.
SB 1097 to Committee on Judicial Affairs.
SB 1128 to Committee on Retirement and Aging.
SB 1143 to Committee on Ways and Means.
SB 1166 to Committee on Higher Education.
SB 1181 to Committee on Higher Education.
SB 1216 to Committee on Human Services.
SB 1273 to Committee on Judicial Affairs.
SB 1274 to Committee on Public Education.
SB 1278 to Committee on Public Health.
SB 1291 to Committee on Judicial Affairs.
SB 1292 to Committee on County Affairs.
SB 1306 to Committee on Judicial Affairs.
SB 1325 to Committee on Environmental Affairs.
SB 1328 to Committee on Public Health.
SB 160 to Committee on Criminal Jurisprudence.
SB 223 to Committee on Judicial Affairs.
SB 369 to Committee on Transportation.
SB 375 to Committee on Public Health.
SB 382 to Committee on Elections.
SB 383 to Committee on Public Education.
SB 461 to Committee on Higher Education.
SB 468 to Committee on Higher Education.
SB 518 to Committee on Energy.
SB 549 to Committee on Transportation.
SB 587 to Committee on Elections.
SB 710 to Committee on Law Enforcement.
SB 787 to Committee on Urban Affairs.
SB 803 to Committee on Judiciary.
SB 838 to Committee on Criminal Jurisprudence.
SB 839 to Committee on Judicial Affairs.
SB 856 to Committee on Judicial Affairs.
SB 901 to Committee on Public Health.
SB 906 to Committee on Public Health.
SB 912 to Committee on Higher Education.
SB 913 to Committee on Higher Education.
SB 964 to Committee on Liquor Regulation.
SB 969 to Committee on Transportation.
SB 1019 to Committee on Public Health.
SB 1038 to Committee on Urban Affairs.
SB 1044 to Committee on Judicial Affairs.
SB 1056 to Committee on Elections.
SB 1096 to Committee on Public Education.
SB 1137 to Committee on Criminal Jurisprudence.
SB 1155 to Committee on Public Health.
SB 1192 to Committee on County Affairs.
SB 1197 to Committee on County Affairs.
SB 1217 to Committee on County Affairs.
SB 1252 to Committee on Judicial Affairs.
SB 1282 to Committee on Judicial Affairs.
SB 1287 to Committee on Insurance.
SB 1293 to Committee on Insurance.
SB 1299 to Committee on Public Health.
SB 1316 to Committee on State Affairs.
SB 1338 to Committee on State Affairs.
SB 1260 to Committee on Natural Resources.

**HR 349 - ADOPTED**

Representative E. Barton moved that all necessary rules be suspended to take up and consider at this time, **HR 349**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By E. Barton:

**HR 349, Commending Pasadenians on Watch**.

The resolution was adopted without objection.

**HR 359 - ADOPTED**

Representative Gilley moved that all necessary rules be suspended to take up and consider at this time, **HR 359**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Gilley:

**HR 359, Designating May 9, 1983, as “Greenville Day in Austin”**.

The resolution was adopted without objection.

On motion of Representative Hollowell, the names of all the members of the house were added to **HR 359** as signers thereof.

**HCR 234 - ADOPTED**

Representative Cerverha moved that all necessary rules be suspended to take up and consider at this time, **HCR 234**.
The motion prevailed without objection.
The speaker laid before the house the following resolution:
By Ceverha:
HCR 234, Commending Raymond Douglas Noah.
The resolution was adopted without objection.

HCR 235 - ADOPTED
Representative Ceverha moved that all necessary rules be suspended to take up and consider at this time, HCR 235.
The motion prevailed without objection.
The speaker laid before the house the following resolution:
By Ceverha:
HCR 235, Commending Tom J. Ewbank.
The resolution was adopted without objection.

HR 357 - ADOPTED
Representative G. Hill moved that all necessary rules be suspended to take up and consider at this time, HR 357.
The motion prevailed without objection.
The speaker laid before the house the following resolution:
By G. Hill:
HR 357, Encouraging Microelectronics and Computer Technology Corporation to locate in Austin, Texas.
The resolution was adopted without objection.

HR 353 - ADOPTED
Representative Granoff moved that all necessary rules be suspended to take up and consider at this time, HR 353.
The motion prevailed without objection.
The speaker laid before the house the following resolution:
By Granoff:
HR 353, In memory of Ronald D. Baker.
The resolution was unanimously adopted by a rising vote.

HR 360 - ADOPTED
Representative Polk moved that all necessary rules be suspended to take up and consider at this time, HR 360.
The motion prevailed without objection.
The speaker laid before the house the following resolution:

By Polk:

HR 360

WHEREAS, Monday, the 9th day of May, 1983, the members of the Texas House of Representatives will have the opportunity to pause and recognize the birthday of an esteemed colleague; and

WHEREAS, The Honorable Jack C. Vowell of El Paso today celebrates his 56th birthday; and

WHEREAS, Representing District 70, this outstanding Texan is serving his second term in the house of representatives; and

WHEREAS, His contributions to the lawmaking process in Texas have earned him the respect of fellow members and the appreciation of his constituents; now, therefore, be it

RESOLVED, That the House of Representatives of the 68th Texas Legislature hereby wish the Honorable Jack C. Vowell a Happy Birthday and commend him on his exceptional service to the State of Texas; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Representative Vowell as a memento of this day and as a token of good wishes from his friends in the Texas House of Representatives.

The resolution was read and was adopted without objection.

On motion of Representative Wieting, the names of all the members of the house were added to HR 360 as signers thereof.

SB 179 - REQUEST OF SENATE GRANTED

On motion of Representative Presnal, the house granted the request of the senate for the appointment of a conference committee on SB 179.

SB 179 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on SB 179: Presnal, chair; Rudd, Madia, Hollowell, and J. Gibson.

HB 800 ON SECOND READING

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

HB 800, A bill to be entitled An Act relating to the recovery of damages for the wrongful death of a child.

HB 800 was on the calendar on May 6, and was postponed until 2 p.m. today.

The bill was read second time.

Representative Wright moved that HB 800 be laid on the table subject to call.

The motion prevailed without objection.

HB 720 - POSTPONED

Representative J. Gibson moved that consideration of HB 720 be postponed until Wednesday, May 11, at 10 a.m.

The motion prevailed without objection.
SB 911 ON SECOND READING
(Keller - House Sponsor)

The speaker laid before the house, in lieu of HB 1547, on its second reading and passage to third reading,

SB 911, A bill to be entitled An Act relating to creation of a Criminal Justice Policy Council and its functions, administration, and funding; the organization and functions of the Criminal Justice Coordinating Council and the elimination of the Criminal Justice Division Advisory Board and the executive funding committee; amending Chapter 324, Acts of the 67th Legislature, Regular Session, 1981 (Article 4413(49), Vernon's Texas Civil Statutes), by amending Sections 1, 2, 3, 4, and 5 and adding Section 4A; and amending Section 6 and repealing Section 7, Chapter 495, Acts of the 67th Legislature, Regular Session, 1981 (Article 4413(32a), Vernon's Texas Civil Statutes).

The bill was read second time.

Representative Peveto offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend SB 911 as follows:
On page 4, line 12, by striking "establish", and substituting "recommend". On page 9, line 19, by striking "which address" and substituting "upon consideration of", and by striking "established" and substituting "recommended".

Committee Amendment No. 1 was adopted without objection.

SB 911, as amended, was passed to third reading.

HB 1547 - LAID ON THE TABLE SUBJECT TO CALL

Representative Keller moved that HB 1547 be laid on the table subject to call.

The motion prevailed without objection.

SB 367 ON THIRD READING
(Messer - House Sponsor)

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

SB 367, A bill to be entitled An Act relating to local government compensation for required removal of outdoor advertising.

The bill was read third time.

Representative P. Hill moved that consideration of SB 367 be postponed until Thursday, May 19, at 2 p.m.

Representative Messer moved to table the motion to postpone.

A record vote was requested.

The motion to table prevailed by (Record 328): 105 Yeas, 32 Nays, 2 Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, E.; Borlango; Blanton; Bomer; Buchanan; Burnett; Cary; Cavazos; Ceverha; Clark; Clemons; Connelly; Coody; Craddick; Criss; De Lay; De leo; Denton; E e k e l s; E i k e n b u r g; E m m e t t; English; Evans, C.; Evans, L.; Fin nell; Gamez; Garcia, A.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gil ley; Glossbrenner; Grisham; Haley; Hall, T.; Hanna; Harrison, D.; Harrison, W.; He llen; Hernandez; High tower; Hil bert; Hill, G.; Hudson, D.; Hudson, S.; Hury; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel;
Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Martinez, R.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Polk; Polumbo; Presnal; Rangel; Robinson; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Short; Simpson, Smith, A.; Smith, T.; Staniswalis; Stiles; Tejeda; Thompson, G.; Thompson, S.; Toomey; Turner; Vowell; Waldrop; Watson; Whaley; Wieting; Willis; Word; Wright.

Nays — Agnich; Barton, B.; Bush; Cain; Carriker; Colbert; Crockett; Danburg; Davis; Edwards; Fox; Gandy; Garcia, M.; Granoff; Green; Hammond; Hill, A.; Hill, P.; Hinojosa; Hollowell; Horn; Jackson; Laney; Lee, D.; Martinez, W.; Oliver; Ragsdale; Robnett; Salinas; Shea; Smith, C.; Wallace.

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

Absent, Excused — Hackney; Hall, L.; Sutton; Tow.

Absent — Collazo; Hall, W.; Mankins; Price; Uber; Valles; Wilson.

A record vote was requested.

SB 367 was passed by (Record 329): 104 Yeas, 34 Nays, 2 Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Carriker; Cary; Cavazos; Ceverha; Clark; Clemens; Collazo; Connelly; Coody; Craddick; Criss; DeLay; Delco; Denton; Eckels; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Finnell; Garza; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Grisham; Hafez; Hall, T.; Hanna; Harrison, D.; Harrison, W.; Hefflin; Hernandez; Hightower; Hilbert; Hill, G.; Hinojosa; Hudson, D.; Hudson, S.; Jones; Kemp; Khoury; Kubiak; Kuempel; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Messer; Millsap; Moreno, A.; Oliveira; Parker; Patrick; Patterson; Pennington; Peveto; Pierce; Presnal; Rangel; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Short; Simpson; Staniswalis; Stiles; Tejeda; Thompson, G.; Toomey; Turner; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Word; Wright.

Nays — Agnich; Cain; Colber; Crockett; Danburg; Davis; Edwards; Fox; Gandy; Granoff; Green; Hammond; Hill, A.; Hill, P.; Hollowell; Horn; Hury; Jackson; Laney; Lee, D.; Martinez, W.; Moreno, P.; Oliver; Patronella; Polk; Polumbo; Price; Ragsdale; Robinson; Robnett; Salinas; Shea; Smith, A.; Smith, C.

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

Absent, Excused — Hackney; Hall, L.; Sutton; Tow.

Absent — Hall, W.; Keller; Smith, T.; Thompson, S.; Uber; Valles.

**HJR 22 ON SECOND READING**

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HJR 22.

**CSHJR 22**

**A JOINT RESOLUTION**

proposing a constitutional amendment relating to the per diem for members of the legislature.

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

SECTION 1. That Article III, Section 24, of the Texas Constitution be amended to read as follows:
Sec. 24. (a) Members of the Legislature shall receive from the Public Treasury a salary of Six Hundred Dollars ($600) per month. Each member shall also receive a per diem of Thirty Dollars ($30) for each day during each Regular and Special Session of the Legislature. The per diem allowed during a calendar year is in an amount equal to the maximum daily amount allowed as of January 1 of that year for federal income tax purposes as a deduction for ordinary and necessary business expenses incurred by a state legislator, disregarding any exception in federal law for legislators residing near the capitol.

(b) No Regular Session shall be of longer duration than one hundred and forty (140) days.

(c) In addition to the per diem the Members of each House shall be entitled to mileage at the same rate as prescribed by law for employees of the State of Texas. [This amendment takes effect on April 22, 1975.]

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 6, 1984. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to provide a per diem for members of the legislature equal to the maximum daily amount allowed by federal law as a deduction for ordinary and necessary business expenses incurred by a state legislator."

(Green in the chair)

A record vote was requested.

CSHRJ 22 was read second time and was adopted by (Record 330): 106 Yeas, 36 Nays, 1 Present, not voting.

Yeas — Agnich; Barrientos; Barton, B.; Barton, E.; Blanton; Buchanan; Burnett; Bush; Cain; Carrker; Cary; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Coody; Criss; Crockett; Danburg; Davis; Delco; Denton; Eckels; Edwards; Emmett; English; Evans, C.; Evans, L.; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gilley; Glosabrenner; Granoff; Green(C); Grisham; Hall, T.; Hall, W.; Hammond; Harrison, W.; Hernandez; Hightower; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hur; Jackson; Keller; Kemp; Khour; Kubiak; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patrick; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robnett; Rudd; Salinas; Saunders; Schoolcraft; Shaw; Simpson; Smith, T.; Tejeda; Thompson, G.; Thompson, S.; Vowell; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Wright.

Nays — Armbrister; Arnold; Bomier; Connelly; Craddock; DeLay; Eikenburg; Fennell; Geistweidt; Gibson, J.; Haley; Hanna; Harrison, D.; Heflin; Hilbert; Jones; Kuempel; McKenna; Parker; Patronella; Patterson; Pennington; Pevey; Robinson; Russell; Schlueter; Shea; Short; Smith, A.; Smith, C.; Staniswalis; Stiles; Toomey; Turner; Waldrop; Word.

Present, not voting — Mr. Speaker.

Absent, Excused — Hackney; Hall, L.; Sutton; Tow.

Absent — Berlanga; Uher; Valles.

HB 1234 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1234.
CSHB 1234

A BILL TO BE ENTITLED
AN ACT
relating to the punishment, sentencing, and availability of parole or mandatory supervision for a person convicted of a capital offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS
SECTION 1. Section 12.31, Penal Code, is amended to read as follows:
Sec. 12.31. CAPITAL FELONY. (a) An individual adjudged guilty of a capital felony shall be punished by confinement in the Texas Department of Corrections for life or for life without parole or by death.
(b) Prospective jurors shall be informed that a sentence of life imprisonment, life imprisonment without parole, or death is mandatory on conviction of a capital felony. A prospective juror shall be disqualified from serving as a juror unless he states under oath that the mandatory penalty of death, imprisonment for life, or imprisonment for life without parole will not affect his deliberations on any issue of fact.

SECTION 2. Article 37.071, Code of Criminal Procedure, 1965, is amended by amending Subsections (a), (e), and (f) to read as follows:
(a) Upon finding that the defendant is guilty of a capital offense, the court shall conduct a separate sentencing proceeding to determine whether the defendant shall be sentenced to death, or life imprisonment, or life imprisonment without parole. The proceeding shall be conducted in the trial court before the trial jury as soon as practicable. In the proceeding, evidence may be presented as to any matter that the court deems relevant to sentence. This subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or of the State of Texas. The state and the defendant or his counsel shall be permitted to present argument for or against sentence of life imprisonment without parole or death.
(b) On conclusion of the presentation of the evidence, the court shall submit the following issues to the jury:
(1) whether the conduct of the defendant that caused the death of the deceased was committed deliberately and with the reasonable expectation that the death of the deceased or another would result;
(2) whether there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society; and
(3) if raised by the evidence, whether the conduct of the defendant in killing the deceased was unreasonable in response to the provocation, if any, by the deceased.
(c) The state must prove each issue submitted beyond a reasonable doubt, and the jury shall return a special verdict of “yes” or “no” on each issue submitted.
(d) The court shall charge the jury that:
(1) it may not answer any issue “yes” unless it agrees unanimously; and
(2) it may not answer any issue “no” unless 10 or more jurors agree.
(e) If the jury returns an affirmative finding on each issue submitted under this article, the court shall [sentence the defendant to death] submit the following issue to the jury: whether the defendant shall be sentenced to death or confinement in the Texas Department of Corrections for life without parole. The trial court shall conduct a separate proceeding to submit this issue to the trial jury and the state and the defendant or his counsel shall be permitted to present argument on the issue as submitted.
Upon the return of an answer and finding of the jury to the issue of whether the defendant shall be sentenced to death or confinement in the Texas Department...
of Corrections for life without parole, the court shall sentence the defendant in accordance with the answer and finding of the jury to a term of confinement in the Texas Department of Corrections for life without parole or death. If the jury returns a negative finding on or is unable to answer any issue submitted under this article, the court shall sentence the defendant to confinement in the Texas Department of Corrections for life. The court, the attorney for the state, or the attorney for the defendant may not inform a juror or a prospective juror of the effect of failure of the jury to agree on an issue submitted under this article.

(f) The judgment of conviction and sentence of death or confinement in the Texas Department of Corrections for life without parole shall be subject to automatic review by the Court of Criminal Appeals within 60 days after certification by the sentencing court of the entire record unless time is extended an additional period not to exceed 30 days by the Court of Criminal Appeals for good cause shown. Such review by the Court of Criminal Appeals shall have priority over all other cases, and shall be heard in accordance with rules promulgated by the Court of Criminal Appeals.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSHB 1234 was read second time.

Representative Toomey moved to table CSHB 1234.

The vote of the house was taken on the motion to table CSHB 1234 and the vote was announced yeas 69, nays 72.

A verification of the vote was requested and was granted.

The roll of those voting nay was again called and the verified vote resulted as follows (Record 331): 69 Yeas, 72 Nays, 1 Present, not voting.

Yeas — Agnich; Arnold; Bomer; Buchanan; Ceverha; Clark; Clemmons; Connelly; Craddick; Davis; DeLay; Eckels; Finnell; Fox; Gibson, B.; Green(C); Grisham; Haley; Hammonds; Hanna; Harrison, D.; Heflin; Hightower; Hibbert; Hill, A.; Hill, P.; Horn; Hudson, D.; Hurry; Jackson; Jones; Keller; Khou; Kubik; Kuepmel; Lee, D.; McKenna; McWilliams; Mankins; Messer; Millsap; Parker; Patrick; Patterson; Pennington; Polumbo; Presnal; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcroft; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Thompson, G.; Toomey; Turner; Whaley; Wolens; Word; Wright.

Nays — Armbrister; Barrientos; Barton, B.; Barton, E.; Blanton; Burnett; Bush; Cain; Carricker; Cary; Cavazos; Colbert; Collazo; Coody; Criss; Crockett; Danburg; Delco; Denton; Edwards; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, J.; Gilley; Glossbrenner; Granoff; Hall, T.; Hall, W.; Hernandez; Hill, G.; Hinojosa; Hollowell; Hudson, S.; Kemp; Laney; Lee, E. F.; Leonard; Luna; Madla; Martinez, R.; Martinez, W.; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patronella; Peveto; Pierce; Polk; Price; Ragsdale; Rangel; Salinas; Shaw; Tejeda; Thompson, S.; Valles; Vowell; Waldrop; Wallace; Watson; Wieting; Willis; Wilson.

Present, not voting — Mr. Speaker.

Absent, Excused — Hackney; Hall, L.; Sutton; Tow.

Absent — Berlanga; Geistweidt; Harrison, W.; Uher.
By unanimous consent, the house dispensed with the verification of those voting yea.

The chair stated that the motion to table was lost by the above vote.

STATEMENT BY REPRESENTATIVES W. HARRISON AND BERLANGA

I was out of the chamber on Port of Corpus Christi business when the vote was taken. Had I been present I would have voted no on motion to table.

W. Harrison
Berlanga

Representative Toomey offered the following amendment to \textbf{CSHB 1234}:

\begin{itemize}
    \item[(1)] Delete the following clause in all places in the substitute: “life imprisonment without parole”.
    \item[(2)] On page 2, line 1, add back the word “or” deleted.
    \item[(3)] Page 2, line 9, after the words “sentence of” add the following: “life or” in place of the words “life imprisonment without parole”.
    \item[(4)] Page 3, delete all the new (amended) language in paragraph (e).
    \item[(5)] Page 3, line 26, delete all the words after the word “death” through and including the word “parole”.
\end{itemize}

Representative Hernandez moved to table the Toomey amendment.

(Armbrister in the chair)

A record vote was requested.

The motion to table prevailed by (Record 332): 74 Yeas, 68 Nays, 1 Present, not voting.

Yeas — Armbrister(C); Barrientos; Barton, B.; Barton, E.; Berlanga; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Colbert; Collazo; Coody; Criss; Crockett; Danburg; Delco; Denton; Edwards; English; Evans, L.; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Hall, W.; Hernandez; Hill, A.; Hill, G.; Hinojosa; Hudson, D.; Hudson, S.; Jones; Kemp; Lee, D.; Lee, E. F.; Luna; Madla; Martinez, R.; Martinez, W.; Messer; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patroneylla; Peveto; Pierce; Polk; Price; Ragsdale; Rangel; Salinas; Shaw; Smith, T.; Tejeda; Thompson, S.; Valles; Vowell; Waldrop; Wallace; Watson; Wieting; Willis; Wilson.

Nays — Agnich; Arnold; Blanton; Bomer; Buchanan; Ceverha; Clark; Clemons; Connelly; Craddick; Davis; DeLay; Eckels; Eikenburg; Emmett; Evans, C.; Finnell; Fox; Geistweidt; Green; Grisham; Haley; Hall, T.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hightower; Hilbert; Hill, P.; Hollowell; Horn; Hurty; Jackson; Keller; Khoury; Kubiak; Kuempel; Laney; Leonard; McKenna; McWilliams; Mankins; Millsap; Patterson; Pennington; Polumbo; Presnal; Robinson; Robnett; Russell; Saunders; Schlueter; Schoolcraft; Shea; Short; Simpson; Smith, A.; Smith, C.; Staniswalis; Stiles; Thompson, G.; Toomey; Whaley; Wolens; Word; Wright.

Present, not voting — Mr. Speaker.

Absent, Excused — Hackney; Hall, L.; Sutton; Tow.

Absent — Rudd; Turner; Uber.

The vote of the house was taken on passage to engrossment of \textbf{CSHB 1234} and the vote was announced yeas 72, nays 72.
A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted as follows (Record 333): 71 Yeas, 71 Nays, 1 Present, not voting.

Yeas—Armbrister(C); Barrientos; Barton, B.; Barton, E.; Berlanga; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Colbert; Collazo; Coody; Criss; Crockett; Danburg; Delco; Denton; Edwards; Emmett; English; Evans, L.; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, J.; Gilley; Glossbrenner; Granoff; Hall, T.; Hall, W.; Harrison, W.; Hernandez; Hill, G.; Hinojosa; Hollowell; Hudson, D.; Hudson, S.; Kemp; Lee, D.; Lee, E. F.; Leonard; Luna; Madla; Martinez, R.; Martinez, W.; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patronella; Peveo; Pierce; Polk; Price; Ragsdale; Rangel; Salinas; Tejeda; Thompson, S.; Valles; Vowell; Waldrop; Wallace; Watson; Wieting; Willis; Wilson.

Nays—Agnich; Arnold; Bomer; Buchanan; Ceverha; Clark; Clemmons; Connolly; Craddick; Davis; DeLay; Eckels; Eikenburg; Evans, C.; Finney; Fox; Geistweidt; Gibson, B.; Green; Grisham; Hammond; Hanna; Harrison, D.; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Horn; Hury; Jackson; Jones; Keller; Khoury; Kubiak; Kuempel; Laney; McKenna; McWilliams; Mankins; Mesker; Millsap; Parker; Patrick; Patterson; Pennington; Polk; Presnak; Robinson; Robinett; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Thompson, G.; Toomey; Turner; Whaley; Wolens; Word; Wright.

Present, not voting—Mr. Speaker.

Absent, Excused—Hackney; Hall, L.; Sutton; Tow.

Absent—Haley; Rudd; Uher.

The chair stated that CSHB 1234 failed to pass to engrossment by the above vote.

MESSAGE FROM THE SENATE

Austin, Texas, May 9, 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:

SB 198 by Santiesteban, relating to tax credits for corporations engaged in the business of manufacturing, selling or installing solar energy devices.

SB 900 by Caperton, relating to exemptions from tuition and fees and provision of stipends for certain teachers training in secondary science or mathematics education.

SB 1066 by Washington, relating to good conduct time earned by a prisoner and to department procedures for the restoration of good conduct time.

SB 1091 by Harris, relating to the electronic transfer of funds from the accounts of customers at certain financial institutions.

SB 1321 by Farabee, relating to regulation of business opportunity sales.
SB 1362 by Vale, relating to the regulation of ambulatory surgical centers.

Respectfully,
Betty King
Secretary of the Senate

HB 2000 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 2000.

CSHB 2000

A BILL TO BE ENTITLED
AN ACT
relating to revision of the political funds reporting and disclosure law; providing penalties.

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

SECTION 1. Section 237(A), Texas Election Code (Article 14.01, Vernon's Texas Election Code), is amended to read as follows:

(A) "Candidate" is defined as any person who has knowingly and willingly taken affirmative action for the purpose of seeking nomination or election to any public office which is required by law to be determined by an election. Some examples of affirmative action are:
1. Filing of application for a position on a ballot.
2. Filing of application for nomination by a convention under Section 224a of this code.
3. Independent candidate's declaration of intent under Section 224a of this code.
4. Public announcement of a definite intent to run for office at a particular election, either with or without designating the specific office to be sought.
5. Statement of definite intent and solicitation of support through letters or other modes of communication, prior to a public announcement.
7. Seeking the nomination of an executive committee of a political party to fill a vacancy pursuant to Section 233 of this code (Article 13.56, Vernon's Texas Election Code).
8. Filing [The filing] of a designation of a campaign treasurer [is not affirmative action which makes one a candidate as defined in this chapter].

SECTION 2. Subsections (B), (F), and (J), Section 238, Texas Election Code (Article 14.02, Vernon's Texas Election Code), are amended to read as follows:

(B) Every candidate for nomination to or election to a state or district office and every specific purpose political committee in any such election or in an election involving a statewide or district measure and every general purpose political committee shall designate a campaign treasurer by written appointment filed with the Secretary of State, and may also designate assistant campaign treasurers for each county by written appointment to be filed either with the county clerk of said county, or the Secretary of State.

(F)(1) Except as expressly permitted in this chapter, no contribution as defined in Section 237(D)(1) shall be accepted nor any expenditure, as defined in Section 237(E)(1), including the paying of any filing fee, made by an individual until
he has filed the name of his campaign treasurer with the appropriate authority. No contribution shall be accepted nor any expenditure made by a political committee until it has filed the name of its campaign treasurer with the appropriate authority. If it is not otherwise possible for a candidate or specific purpose political committee to determine which authority is appropriate for the filing of campaign treasurer designation, then a filing with the Secretary of State shall be sufficient, but only until such time as the appropriate authority may be determined in accordance with the provisions of Subsections (B), (C), and (D) of this Section.

(2) It is unlawful for a political committee to make a contribution or an expenditure in support for or in opposition to a candidate for a state or district office in a primary or general election unless the committee's designation of campaign treasurer has been filed before the 30th day preceding the appropriate election day. [A political committee existing prior to the effective date of this Act shall file a new designation of a campaign treasurer with the appropriate authority for that committee before accepting any additional contributions or making any additional expenditures after the effective date of this Act].

(J) A designation of a campaign treasurer or an assistant campaign treasurer shall be deemed to be timely filed if it is placed in the United States Post Office or in the hands of a common carrier properly addressed to the appropriate authority within the time limits applicable to such designation. The postmark or receipt mark (if received by a common or contract carrier) will be prima facie evidence of the date that such statement was deposited with the post office or carrier. The person filing the designation may show by competent evidence that the actual date of posting was to the contrary. No charge shall be made for filing designations of campaign treasurer or assistant campaign treasurer with any authority.

SECTION 3. Section 239, Texas Election Code (Article 14.03, Vernon's Texas Election Code) is amended by amending Paragraph (D) and adding Paragraph (E) to read as follows:

(D) Except as expressly permitted by Paragraphs (A), (B), and (E) of this Section it shall be unlawful for any person, other than a candidate, his campaign treasurer, or assistant campaign treasurer, or the campaign treasurer of a political committee, to make or authorize any campaign expenditure. Except as provided in Paragraphs (A), (B), and (E) of this Section, campaign expenditures must be made by the candidate, campaign treasurer, or assistant campaign treasurer, or the campaign treasurer of a political committee.

(E)(1) It shall be lawful for a corporation or a labor organization to expend its own funds for the purpose of aiding or defeating a measure by making a contribution to a political committee that supports or opposes measures exclusively.

(2) It shall be lawful for a corporation or labor organization, not acting in concert with any other person, to make direct expenditures from its own funds for the purpose of aiding or defeating a measure by complying with this Section as if the corporation or labor organization were an individual.

SECTION 4. Section 242(A), Texas Election Code (Article 14.06, Vernon's Texas Election Code), is amended to read as follows:

(A) It is unlawful for any corporation, as defined in this Act, to make a contribution or expenditure, as defined in Section 237 of this code (Article 14.01, Vernon's Texas Election Code), or any labor organization to make a contribution or expenditure, or for any candidate, office-holder, political committee, or other person to knowingly accept any contribution prohibited by this Article except that a corporation or labor organization may make a contribution or expenditure for the purpose of aiding or defeating a measure in accordance with Section 239 of this code (Article 14.03, Vernon's Texas Election Code).
SECTION 5. Chapter 14, Texas Election Code, is amended by adding Section 239d to read as follows:

239d. PROHIBITION OF PERSONAL USE OF CONTRIBUTION. (a) It is unlawful for a person who accepts a contribution as a candidate or office-holder to convert the contribution to his personal use.

(b) In this section, "personal use" means any beneficial use in connection with the furtherance of individual, living, or family purposes. The term does not include any payments made to defray ordinary and necessary expenses incurred in connection with the performance of duties or activities as a candidate for or holder of a public office.

(c) Any person who converts a contribution to his personal use in violation of this section is civilly liable to the State of Texas for an amount equal to triple the amount of the converted contribution plus reasonable court costs.

(d) A person who is no longer a candidate or office-holder is not subject to Subsection (a) of this section until January 1, 1987.

SECTION 6. Section 243, Texas Election Code (Article 14.07, Vernon's Texas Election Code), is amended by amending Subsections (B), (C), (D), (G), (H), (I), (J), and (K) and by adding Subsections (C-1) and (P) to read as follows:

(B) Each [opposed] candidate whose name is printed on the ballot, each person who, after having become a candidate, has withdrawn as a candidate, each write-in candidate taking affirmative action in an election and each political committee involved in an election concerning a candidate or measure shall file [a] sworn statements as [statement at each time] required herein. [The statement shall include the full name and complete address of each person to whom a payment is made from unexpended contributions; and the date, amount, and purpose of the payment:] Each office-holder and political committee as defined in Subsections (O)(2), (P)(2), or (Q)(2) in Section 237 of this Code, shall file [a] sworn statements [statement] as required herein.

(C)(1) Each statement filed by a candidate, office-holder, political committee, or the political committee's campaign treasurer must list all contributions received and all expenditures made during the period covered by the statement as described in Subsection (H) of this section. Each statement must include, for the period covered, the following information:

(a) the full name and complete address of each person from whom contributions in an aggregate amount of more than $50 were received, and the date and amount of the contributions;

(b) the full name and complete address of each person to whom any expenditures aggregating more than $50 were made, and the date, amount, and purpose of the expenditures, and the name of each candidate or office-holder on whose behalf the expenditures were made unless the expenditures were made on behalf of the candidate or office-holder filing the statement or the expenditures were made on behalf of the candidate or office-holder supported or assisted by the political committee filing the statement;

(c) the full name and complete address of each person to whom a payment that is not an expenditure was made, if the payment was made from a contribution, and the date, amount, and purpose of the payment;

(d) the full name and complete address of each person who assisted in obtaining credit or a loan of money for or on behalf of the candidate, office-holder, or political committee, or who guaranteed or otherwise agreed to assume any financial obligation for or on behalf of the candidate, office-holder, or political committee, if the benefit of the credit, the proceeds of the loan, or the guarantee or assumption of the obligation was to be involved, directly or indirectly, in an election, and the date and total value of the credit, loan, or guarantee or assumption;
(e) a total of all contributions of $50 and less received and a total of all expenditures of $50 and less made; and

(f) a total of all contributions received and all expenditures made; and;

(g) a total of unexpended contributions received or the outstanding indebtedness from expenditures made as of the end of the period covered by the previous statement required to be filed under this section.

(2) Each statement filed by a candidate or a political committee must include the campaign treasurer's name, business or residence street address, and telephone number.

(3) Each statement filed by a general-purpose political committee or its campaign treasurer must include the principal occupation of each person from whom contributions in an aggregate amount of more than $50 were received in the period covered by the statement.

(4) Each statement filed by a political committee or its campaign treasurer must include the amount of each expenditure in the form of a contribution made to a candidate, office-holder, or another political committee that was returned to the political committee during the period covered by the statement, the name of the person to whom the expenditure was originally made, and the date it was returned.

(5) A contribution received but not accepted is not required to be reported pursuant to this section. A determination of whether to accept a contribution that is received by a candidate, office-holder, campaign treasurer, or assistant campaign treasurer shall be made before the end of the reporting period during which the contribution was received. If the determination on accepting the contribution is not made before that time, it is considered accepted on the last day of the reporting period during which the contribution was received. A candidate, office-holder, campaign treasurer, or assistant campaign treasurer commits a Class A misdemeanor if he knowingly fails to return a contribution as required by this subdivision. A candidate, office-holder, campaign treasurer, or assistant campaign treasurer commits a Class A misdemeanor if he knowingly fails to return a contribution as required by this subdivision.

(6) For purposes of the time and manner of reporting, an expenditure need not be considered to have been made until the amount is readily determinable or, if the character of the expenditure is such that normal business practice is not to disclose the amount until the next periodic bill is received, then the expenditure need not be considered to have been made until the date of receipt of the bill.

(C-1) In addition to the filing of a sworn statement under this section, the information required to be reported on the statement regarding contributions from a person that in the aggregate exceed $1,000 and that are accepted during the period beginning on the ninth day before election day and ending at the closing of the polls on election day shall be reported by telegram to the appropriate authority within 48 hours of acceptance.

(D)(1) A general-purpose political committee must file a statement of organization with the secretary of state at the time it files the name of its campaign treasurer. The name of a general-purpose political committee may not be the same as, or deceptively similar to, the name of any other general-purpose political committee whose statement of organization is filed with the Secretary of State. If there is a change in the information required to be included in the statement of organization, the political committee shall file an amended statement of organization with the secretary of state not later than the 30th day after the change occurs. The statement of organization must include the political committee's campaign treasurer's name, business or residence street address, and telephone number, and the following information:
(a) the name of each corporation, labor organization, or other association or legal entity that directly establishes, administers, or controls the political committee, if applicable; or

(b) the name of each person that determines to whom the political committee makes contributions or for what purposes the political committee makes expenditures.

(2) Each political committee receiving contributions or making expenditures on behalf of a candidate, or office-holder, shall notify the candidate, or office-holder, as to the name and address of the political committee and its campaign treasurer, if one is required. The candidate, or office-holder, shall include within each statement required by this code a list identifying the name and address of each such political committee and its campaign treasurer, if one is required. "On behalf of" means the knowing acceptance of a contribution for a candidate(s), or office-holder(s), or the making of an expenditure for a candidate(s), or office-holder(s). Any campaign treasurer, candidate, office-holder, or other person managing a political committee, who violates the provisions of this subdivision shall be guilty of a Class A misdemeanor.

(3) In reporting a contribution received from a political committee not in this state, the information for the contributing committee that is required by Subdivision (1) of this subsection shall be included unless a copy of the committee's statement of organization filed with the Federal Election Commission is filed under Subsection (G) of this section.

(G) In the event a political committee has elected to comply with the provisions applicable to political committees within this state, the requirements of this paragraph shall not be applicable. A candidate, office-holder, or political committee shall not accept a contribution aggregating more than $500 in a reporting period from a political committee not in this state unless the contribution is accompanied by either: (I) a written statement which sets forth the full name and complete address of each person who contributed more than $100 to such committee during the preceding twelve months and which is certified by an officer of the contributing political committee; or (2) a certified copy of the contributing political committee's statement of organization filed as required by law with the Federal Election Commission. A correct copy of any such statement shall be included with the statement filed on which the contribution is reported. For the purpose of reporting, "political committee not in this state" shall mean any political committee expending 80 percent or more of its expenditures in any combination of elections outside of this state and federal offices not voted on in this state within the immediately preceding twelve-month period.

(H)(1) (a) Candidates and the campaign treasurers of specific purpose political committees as defined in subsection (P)(1) of Section 237, shall file sworn statements at the times required in paragraph (4) of this subsection.

(b)(i) Office-holders and specific purpose political committees assisting office-holder(s) as defined in subsection (P)(2) of Section 237 of this Code shall file sworn statements on or before July 15 and on or before January 15 of each year of all contributions received and all expenditures made during the six calendar months preceding the statements (previous calendar year) in accordance with the provisions of subsection (C) of this section but reporting only such contributions accepted and expenditures made that have not been previously reported.

(ii) In addition to the statements (annual statement) required in subsection (H)(1)(b)(i) above, any such office-holder shall file additional statements to cover all contributions received and expenditures made by such office-holder for that period of time prior to the designation of a campaign treasurer by such office-holder, and after such designation all contributions and expenditures are to be reported pursuant to subsection (H)(1)(a). The statements required by this subsection shall
be filed not later than the 15th day following the designation of a campaign treasurer.

(2) Campaign treasurers of general purpose political committees shall file sworn statements at times required in paragraph (5) ([5]) of this subsection.

(3) If the operations of a political committee necessitate a change in the applicability of paragraph (1) or (2) of this subsection, the campaign treasurer of such political committee shall make such change and declare the identity of the authorities with whom future filings are expected to be made by filing (a) notification(s) with the authority(ies) with whom such committee has previously been required to file sworn statements. Failure to file such notice(s), when such change has been properly made, before the next applicable deadline for filing sworn statements under the formerly applicable sections, shall constitute a Class B misdemeanor.

(4)(a) Every candidate and every specific purpose political committee shall file two sworn statements for each year in which the candidate or the specific purpose political committee is not involved in an election. The two sworn statements shall be filed on or before July 15 of each non-election year and on or before January 15 following a non-election year. The period reported in the first such statement begins on January 1 or the day of campaign treasurer designation, as applicable, and ends on and includes June 30. The period reported in the second such statement begins on July 1 and ends on and includes December 31.

(b)(i) Every opposed candidate and every specific purpose political committee shall file three sworn statements relating to the election in which such person is involved in addition to any statement as provided in paragraph (4)(b)(iii) of this subsection [6] below. The three sworn statements shall be filed not later than the 30th day prior to the election, not later than the 7th day prior to the election, and not later than the 30th day after the election, respectively. [A candidate who has been nominated by his party's primary or a specific purpose political committee existing for the sole purpose of supporting such candidate and having given notice of such sole purpose in lieu of filing his third statement which encompasses nine (9) days prior to the twenty-five (25) days after the election shall include in his first statement prior to the general election all previously unreported contributions and expenditures.] The period reported in the first such statement shall begin on the day of campaign treasurer designation or on the day after the end of the period covered by the last required statement, as applicable, and end on and include the 40th day prior to the election. The period reported in the second such statement shall begin on the 39th day before the election and end on and include the 10th day before the election. The period reported in the third such statement shall begin on the 9th day before the election and end on and include the 25th day after the election. In the event an opposed candidate or specific purpose political committee becomes involved in an election after the end of any period covered by the regular reports otherwise required herein, the first applicable sworn statement shall be filed at the next regularly required deadline and its reporting period shall begin on the date of designation of campaign treasurer or on the day after the end of the period covered by the last required statement, as applicable.

(b)(ii) In lieu of any third statement required by paragraph (4)(b)(i) of this subsection, whenever a candidate or specific purpose political committee is involved in a run-off election, the candidate or specific purpose political committee shall file a statement of all previously unreported contributions and expenditures through the 10th day before the run-off election. The next statement required shall be filed not later than the 30th day after the run-off election and shall report all contributions received and
all expenditures made during a period beginning on the 9th day before the run-off
election and ending on the 25th day after the run-off election.

(iii) (6j) Each year after the last deadline for filing a statement of
contributions and expenditures under paragraph (4)(b)(i) of this subsection, an
additional statement shall be filed, provided, however, if there have been no
expenditures made or contributions knowingly accepted since the last required
reporting period, or if any contributions knowingly accepted and any expenditures
made have all been reported under Subsection (H)(1)(h) of this section, there shall
be no filing required. The annual statement shall be filed on or before January 15
(following the last filing) and the period shall cover all previously unreported
contributions and expenditures through and including the 31st day of December.

(c) Every unopposed candidate shall file two sworn statements during the year
in which an election occurs in which the unopposed candidate is involved. The
statements shall be filed on or before July 15 of the year in which the election occurs
and on or before January 15 of the year following the election. The period reported
in the first such statement begins on January 1 or the day of campaign treasurer
designation, as applicable, and ends on and includes June 30. The period reported
in the second such statement begins on July 1 and ends on and includes December
31.

(5) (9) All general purpose political committees shall file sworn statements
as designated either in this paragraph or in Paragraph (6) (9) of this subsection:

(a) On January 15th of each year, a statement of all contributions received
and all expenditures made during the previous calendar year which have not been
previously reported;

(b) Not earlier than the 40th day and not later than the 30th day before the
date of an election in which the general purpose committee is involved, a statement
of all contributions received and all expenditures made during the period from the
date on which the general purpose political committee filed a designation of a
campaign treasurer through the 40th day before the date of the election which have
not been previously reported;

(c) Not earlier than the 10th day and not later than the 7th day before the date
of an election in which the general purpose political committee is involved, a
statement of all contributions received and all expenditures made through the 10th
day before the date of the election which have not been previously reported;

(d) Not earlier than the 25th day and not later than the 30th day after the date
of an election in which the general purpose political committee is involved, a
statement of all contributions received and all expenditures made since the date
covered by the last report filed under this subsection;

(e) Whenever a general purpose political committee is involved in a run-off
election, in lieu of the statement to be filed by not later than the 30th day after the
first election, the committee shall file a statement on the 7th day before the date of
the run-off election showing all contributions received and all expenditures made
since the date of the last report filed under this subsection;

(f) In the event a general purpose political committee becomes involved in an
election after the end of any periods covered by the regular reports otherwise
required herein, the first applicable sworn statement shall be filed at the next
regularly required deadline and its reporting period shall begin on the date of
designation of campaign treasurer.

(6) (9) In lieu of the sworn statements required under Paragraph (5) of this
subsection (9), a general purpose political committee may elect to file sworn
monthly statements of all contributions received and all expenditures made which
have not been previously reported by filing the sworn statements designated herein:

(a) A notice of intent to file monthly statements shall be filed between January
1 and January 15 of the first year in which the committee intends to file monthly
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statements. However, a general purpose political committee formed after January
15 of any particular year may upon designation of its campaign treasurer file at the
same time a notice of intent to file monthly statements pursuant to this paragraph.
The filing remains effective until notice of intent to revert to the regular filing
schedule is filed pursuant to Subparagraph (c) of this paragraph.

(b) On the first day of each calendar month, even if there has been no activity,
a statement of all previously unreported contributions received and all previously
unreported expenditures made through the 25th day of the preceding month. Any
general purpose political committee filing under the procedures of this paragraph
shall include in each statement the dates and amounts and the full name and
complete address of each person from whom contributions in an aggregate amount
of more than $10 has been received or borrowed during the reporting period.
Each statement shall also include the dates and amounts and the full names and complete
addresses of all persons to whom any expenditures aggregating more than $10 were
made during the appropriate reporting period and the purpose of such expenditures.

(c) If a general purpose political committee electing to file sworn monthly
statements wishes to revert to filing the sworn statements required under Paragraph
(5) of this subsection [(f)], such committee must file its intent to do so between
January 1 and January 15 in addition to a statement of all contributions received
and expenditures made which have not previously been reported.

(7) [(g)] Candidates for offices created under laws of the United States are
specifically exempted from the requirements of this section. It is provided, however,
that they shall file copies of any reports required by federal laws with the secretary
of state on the same date they file such reports with the appropriate federal
authorities.

(8) [(h)] Final Statement. A candidate or political committee may cease
filing sworn statements regarding a campaign after a final statement has been filed
and designated as such. Any of the required sworn statements may constitute a final
statement if its filing results in the completion of the reporting of all contributions
and expenditures involved in an election, together with the appropriate related
information, required to be reported.

(9) [(i)] In the event a general purpose political committee makes a
contribution to either another general purpose political committee or an out of state
political committee, and cannot thereby make the determination of the appropriate
times to make filings of sworn statements, such contributing general purpose
political committee shall be deemed to have complied with the requirements of this
Section by filing a sworn statement with the Secretary of State fully reporting such
contribution (as an expenditure) no later than the next succeeding filing deadline
for the January 15th annual statement.

(10) [(j)] In the event a campaign treasurer of a political committee is
terminated, either voluntarily or by action of the political committee, he shall file
a sworn statement no later than the 10th day after such termination, reporting all
appropriate matters for the period from the end of the period reported in the
preceding sworn statement through the day of his termination. Any subsequent
sworn statement which is to be filed by a successor campaign treasurer need not
report those matters included in the previous campaign treasurer's termination
statement.

(11) If any candidate, office-holder, or campaign treasurer of a political
committee fails to file a sworn statement containing all information required by this
chapter, such person shall be guilty of a Class C misdemeanor.

(2) Any candidate, office-holder, campaign treasurer, assistant campaign
treasurer, or other person managing a political committee who swears falsely in a
filed statement is subject to the provisions of Section 37.02 of the Texas Penal Code.
(J) Any candidate or campaign treasurer or assistant campaign treasurer of a political committee who fails to report in whole or in part any contribution or expenditure as provided in the foregoing provisions of this Section shall be liable for double the amount or value of such unreported contribution or expenditure or unreported portion thereof, to each opposing candidate in the election in which same should have been reported. Each of such opposing candidates shall also recover reasonable attorneys' fees for collecting the above liquidated damages.

(K) Any candidate, office-holder, or campaign treasurer or assistant campaign treasurer of a political committee who fails to report in whole or in part any contribution or expenditure as provided in this Section, shall be civilly liable to the State of Texas for an amount equal to triple the amount or value of such unreported contribution or unreported expenditure.

(P) An assistant campaign treasurer designated by a political committee under Section 238(B)(2) of this Code (Article 14.02, Vernon’s Texas Election Code) may perform any duties imposed on the political committee’s campaign treasurer by this Section in the absence of the campaign treasurer.

SECTION 7. Section 243a, Texas Election Code (Article 14.07a, Vernon’s Texas Election Code), is amended by amending Subsection (b) and adding Subsections (d), (e), (t), and (g) to read as follows:

(b) An annual statement filed pursuant to this section shall be filed between January 1 and January 15 of each year. The statement shall include the full name and complete address of each person to whom a payment is made from unexpended contributions and the date, amount, and purpose of the payment. The statement shall include the total amount of unexpended contributions at the end of the year and the amount of interest earned on the contributions during the calendar year. The statement shall be filed with the same authority with whom the person was required to file sworn statements pursuant to Section 243 of this code. An unsuccessful unopposed candidate shall file the statement with the authority with whom an opposed candidate for that office is required to file.

(d) A person may retain contributions accepted under this chapter for six years after the person is no longer an office-holder or candidate, pending any future candidacy. If the person does not become a candidate within the six-year period, the person must dispose of any unexpended contributions in accordance with Subsection (e) of this section and must report the disposition by filing a sworn statement in accordance with this section not later than the 30th day after the end of the six-year period.

(e) A person required to dispose of unexpended contributions under this section must transfer the funds as follows:

1. to the political party with which the person was affiliated when his name last appeared on the ballot;
2. to a candidate or a political committee;
3. to the general revenue fund;
4. a charitable organization that is tax exempt under the IRS Code and has been in existence for at least one year prior to the contribution.

(f) A person who disposes of unexpended contributions under Subsection (e)(2) of this section must report each contribution as if he were a specific purpose political committee.

(g) Contributions disposed of under Subsection (e)(3) of this section may be appropriated only for the financing of political party primary elections.

SECTION 8. Chapter 14, Texas Election Code, is amended by adding Sections 243b and 243c to read as follows:

243b. MODIFIED REPORTING PROCEDURE. (a) A candidate or political committee required by Section 243 of this code (Article 14.07, Vernon’s Texas Election Code) to file sworn statements may file a sworn statement as
provided by this section instead, if the candidate or political committee does not intend to accept contributions exceeding $500 or to make expenditures exceeding $500 in the election.

(b) When designating a campaign treasurer, the candidate or political committee shall file a declaration of intent not to exceed $500 in contributions or expenditures with the authority with whom the candidate or political committee is required to file a designation of campaign treasurer. The declaration of intent must contain a statement that the candidate or political committee understands that if the $500 maximum for contributions or expenditures is exceeded, sworn statements must be filed in accordance with Section 243 of this code.

(c) The candidate or political committee shall file a sworn statement not later than the 30th day after election day. The reporting period covered by the statement begins on the day of the campaign treasurer designation and ends on the 25th day after election day.

(d) A candidate or political committee that exceeds the $500 maximum shall file sworn statements as required by Section 243 of this code. If a candidate or political committee exceeds the maximum after the filing deadline prescribed by Section 243 for the first sworn statement required to be filed under that section, the candidate or political committee shall file a sworn statement not later than 48 hours after the maximum is exceeded. The reporting period covered by the statement begins on the day of the campaign treasurer designation and ends on the day the maximum is exceeded. The reporting period for the next sworn statement filed by the candidate or political committee begins on the day following the last day of the period covered by the first sworn statement.

(e) The amount of a filing fee paid by a candidate is excluded from the $500 maximum expenditure permitted under this section.

(f) Section 243 of this code applies to a candidate or political committee filing in accordance with this section to the extent that Section 243 does not conflict with this section.

SECTION 9. Section 249(D) of this code (Article 14.13, Vernon’s Texas Election Code) is amended by adding Subdivisions (5) and (6) to read as follows:

243c. CIVIL PENALTY FOR LATE STATEMENT FILED WITH SECRETARY OF STATE. (a) The secretary of state shall determine from any available evidence whether a sworn statement required to be filed with him under Section 243 of this code (Article 14.07, Vernon’s Texas Election Code) is late. On making that determination, the secretary shall immediately mail a notice of the determination to the person responsible for filing the statement and to the appropriate attorney for the state.

(b) If a statement is determined to be late, the person responsible for filing the statement is civilly liable to the state for $100. The appropriate attorney for the state may not initiate suit for the penalty until the 10th day after the date the notice is mailed under Subsection (a) of this section. If the penalty is paid before the 10th day after the mailing, the secretary of state shall notify the appropriate attorney for the state, and the suit may not be initiated.

(c) A penalty paid voluntarily under this section shall be deposited to the credit of the general revenue fund.

(d) This section is cumulative of any other available sanctions for late filings of sworn statements.

(e) The prohibitions prescribed by Section 249(D) of this code (Article 14.13, Vernon’s Texas Election Code) on the reporting by the secretary of state of alleged violations of this chapter while a candidate is engaged in campaign activities do not apply to the procedures for collecting a penalty under this section.
(5) Not later than the fifth day before each applicable deadline, the Secretary of State shall notify each person responsible for filing sworn statements with the Secretary under Section 243 of this code (Article 14.07, Vernon's Texas Election Code) of the deadline for filing a statement.

(6) After January 1 of each year, the Secretary of State shall submit to the governor and members of the legislature a report with respect to the preceding calendar year containing:

(A) each interpretation, ruling, or opinion issued under Subdivision (4) of this subsection;

(B) a statement of each violation of this chapter that has been reported to the Secretary of State and referred to the appropriate official for prosecution;

(C) a statement of any difficulties encountered in the administration of this chapter; and

(D) any suggested legislation to conform this chapter to pertinent court decisions or interpretations, rulings, or opinions issued by the Secretary of State.

SECTION 10. Subsection (d), Section 239d, Texas Election Code, expires January 2, 1987.

SECTION 11. This Act takes effect January 1, 1984.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 2000 was read second time.

(Tow now present)

(Speaker in the chair)

Representative Ceverha offered the following amendment to CSHB 2000:

Amend CSHB 2000 by adding a new sentence at the end of the words “public office.” on line 26, page 5 as follows: “The payments may include, but not be limited to, purchase of tickets to community events, membership fees in local, state or national organizations, travel expenses over and above those reimbursed by the state; salary payments to employees who perform duties in connection with the person’s duties as a candidate or a holder of public office; printing expenses; paid advertising; mailing and postage expenses; reimbursement of loans made to a campaign account, including interest payments; purchase of supplies and equipment; entertainment expenses; and participation in training seminars and classes, so long as these expenses are connected with the person’s duties as a candidate or a holder of public office.”

The amendment was adopted.

Representative Wolens offered the following amendment to CSHB 2000:

Amend CSHB 2000, page 22, by adding a new Subparagraph (5) after line 10 to read: “to the person or entity that made the contribution”

The amendment was adopted without objection.

Representative G. Thompson moved that consideration of CSHB 2000 be postponed until Thursday, May 19, at 2 p.m.

Representative Jackson moved to table the motion to postpone.

The motion to table was lost. (A. Smith, Schlutea, and Colbert recorded voting yes; Toomey, T. Smith, and Pennington recorded voting no)
CSHB 2000 was postponed until Thursday, May 19, at 2 p.m. (Colbert, Schlueter, and A. Smith recorded voting no)

**BILLS AND A RESOLUTION SIGNED BY THE SPEAKER**

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and a resolution:

HCR 84, HB 46, HB 68, HB 94, HB 99, HB 131, HB 176, HB 218, HB 266, HB 276, HB 304, HB 333, HB 373, HB 375, HB 376, HB 502, HB 553, HB 665, HB 797, HB 1231, HB 1255, HB 1341, HB 1346, HB 2194, HB 2304

**HB 1954 ON SECOND READING**

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

HB 1954, A bill to be entitled An Act relating to reporting requirements imposed on a person having custody of a prisoner who dies while in custody; providing a penalty.

The bill was read second time.

Representative Hernandez offered the following committee amendment to the bill:

**COMMITTEE AMENDMENT NO. 1**

Amend HB 1954 as follows:

Page 1, Section 1, Subsection (b), line 16 after "report" insert the words "of the cause of death" and line 17 change "10th" to "20th".

Committee Amendment No. 1 was adopted without objection.

HB 1954, as amended, was passed to engrossment.

**HB 1748 ON SECOND READING**

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1748.

CSHB 1748

**A BILL TO BE ENTITLED**

**AN ACT**

This act relates to the clarification of taxable situs rules regarding the allocation to this state of the total market value of movable tangible personal property in general and vessels and other watercraft in particular that are used in interstate, international, and foreign commerce and the determination of the taxing unit in which vessels and other watercraft are taxable.

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

SECTION 1. Section 11.01, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) Tangible personal property that is operated or located exclusively outside this state during the year preceding the tax year and on January 1 of the tax year is not taxable in this state.

SECTION 2. Section 21.02, Tax Code, is amended to read as follows:

Sec. 21.02. TANGIBLE PERSONAL PROPERTY GENERALLY. Except as provided by Sections 21.021 and 21.04 [and 21.05] of this code, tangible personal property is taxable by a taxing unit if:
(1) it is located in the unit on January 1 for more than a temporary period;
(2) it normally is located in the unit, even though it is outside the unit on January 1, if it is outside the unit only temporarily;
(3) it normally is returned to the unit between uses elsewhere and is not located in any one place for more than a temporary period; or
(4) the owner resides (for property not used for business purposes) or maintains his principal place of business in this state (for property used for business purposes) in the unit and the property is taxable in this state but does not have a taxable situs pursuant to Subdivisions (1) through (3) of this section.

SECTION 3. Subchapter A, Chapter 21, Tax Code, is amended by adding Sections 21.02 and 21.03 to read as follows:

Sec. 21.02. VESSELS AND OTHER WATERCRAFT. (a) A vessel or other watercraft used as an instrumentality of commerce (as defined in Section 21.031(b) of this code) is taxable pursuant to Section 21.02 of this code.

(b) A special-purpose vessel or other watercraft not used as an instrumentality of commerce (as defined in Section 21.031(b) of this code) is deemed to be located on January 1 for more than a temporary period for purposes of Section 21.02 of this code in the taxing unit in which it was physically located during the year preceding the tax year. If the vessel or watercraft was physically located in more than one taxing unit during the year preceding the tax year, it is deemed to be located for more than a temporary period for purposes of Section 21.02 of this code in the taxing unit in which it was physically located for the longest period during the year preceding the tax year or for 30 days, whichever is longer. If a vessel or other watercraft is not deemed to be located in any taxing unit on January 1 for more than a temporary period pursuant to this subsection, the property is taxable as provided by Subdivisions (2) through (4) of Section 21.02 of this code.

(c) This section applies solely to a determination of taxable situs and does not apply to a determination of jurisdiction to tax under Section 11.01 of this code.

Sec. 21.03. ALLOCATION OF TAXABLE VALUE OF VESSELS AND OTHER WATERCRAFT USED OUTSIDE THIS STATE. (a) If a vessel or other watercraft that is taxable by a taxing unit is used continually outside this state, whether regularly or irregularly, the appraisal office shall allocate to this state the portion of the total market value of the vessel or watercraft that fairly reflects its use in this state. The appraisal office shall not allocate to this state the portion of the total market value of the vessel or watercraft that fairly reflects its use in another state or country, in international waters, or beyond the Gulfward boundary of this state.

(b) The appraisal office shall make the allocation as follows:

(1) The allocable portion of the total fair market value of a vessel or other watercraft used as an instrumentality of commerce that is taxable in this state is determined by multiplying the total fair market value by a fraction, the numerator of which is the number of miles the vessel or watercraft was operated in this state during the year preceding the tax year and the denominator of which is the total number of miles the vessel or watercraft was operated during the year preceding the tax year. For purposes of this section, "vessel or other watercraft used as an instrumentality of commerce" means a vessel or other watercraft that is primarily employed in the transportation of cargo, passengers, or equipment, and that is economically employed when it is moving from point to point as a means of transportation.

(2) The allocable portion of the total fair market value of a special-purpose vessel or other watercraft not used as an instrumentality of commerce is determined by multiplying the total fair market value by a fraction, the numerator of which is the number of days the vessel or watercraft was physically
located in this state during the year preceding the tax year and the denominator of which is 365. For purposes of this section, "special-purpose vessel or other watercraft not used as an instrumentality of commerce" means a vessel or other watercraft that:

(A) is designed to be transient and customarily is moved from location to location on a more or less regular basis;

(B) is economically employed when operated in a localized area or in a fixed place; and

(C) is not primarily employed to transport cargo, passengers, and equipment but rather to perform some specialized function or operation not requiring constant movement from point to point.

(c) A vessel or other watercraft used as an instrumentality of commerce or a special-purpose vessel or other watercraft not used as an instrumentality of commerce is used outside this state and is in this state solely to be repaired, stored, or inspected is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Sections 11.01 and 21.02 of this code.

(d) If the allocation provisions of this section do not fairly reflect the use of a vessel or other watercraft in this state, an alternate allocation formula shall be utilized if the property owner or appraisal office demonstrates that:

(1) the allocation formula specified in this section is arbitrary and unreasonable as applied to the vessel or watercraft; and

(2) the formula or indication of use proposed by the property owner or appraisal office more fairly reflects the vessel or watercraft's use in this state than that specified in this section.

(e) To receive an allocation of value under this section, a property owner must apply for the allocation on a form that substantially complies with the form prescribed by the State Property Tax Board. The application must be filed with the chief appraiser for the district in which the property to which the application applies is taxable before the approval of the appraisal records by the appraisal review board as provided by Section 41.12 of this code.

(f) The State Property Tax Board shall promulgate forms and may adopt rules consistent with the provisions of this section.

SECTION 4. This Act takes effect January 1, 1984.

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

CSHB 1748 was read second time and was passed to engrossment.

HB 838 ON SECOND READING

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

HB 838, A bill to be entitled An Act relating to offenses involving certain communications and telephone calls intended to harass, annoy, alarm, abuse, torment, or embarrass a person; providing penalties.

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

HB 283 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 283.
CSHB 283

A BILL TO BE ENTITLED
AN ACT
relating to the possession and delivery of certain volatile chemicals; providing
penalties.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. DEFINITIONS. In this Act:
(1) “Deliver” means to actually transfer from one person to another.
(2) “Person” means an individual, corporation, or association.
(3) “Sell” means to offer for sale, convey, exchange, barter, or trade to a
consumer or user.
SECTION 2. VOLATILE CHEMICALS. Any of the following chemicals is
a volatile chemical for purposes of this Act:
(1) toluene;
(2) hexane;
(3) trichloroethylene;
(4) acetone;
(5) ethyl acetate;
(6) methyl ethyl ketone;
(7) trichloroethane;
(8) carbon tetrachloride;
(9) methanol;
(10) methyl isobutyl ketone;
(11) methyl cellosolve acetate;
(12) cyclohexanone;
(13) amyl nitrite;
(14) butyl nitrite;
(15) chloroform;
(16) diethyl ether;
(17) petroleum distillate;
(18) aliphatic hydrocarbons;
(19) chlorinated hydrocarbons;
(20) ketone solvent;
(21) glycol ether solvent;
(22) glycol ether inter solvent; and
(23) xylol or xylene.
SECTION 3. POSSESSION AND USE. (a) A person commits an offense if
the person:
(1) inhales, ingests, applies, or uses a substance containing a volatile chemical
or possesses a substance containing a volatile chemical with the intent to inhale,
ingest, apply, or use the substance in a manner contrary to directions for use,
cautions, or warnings appearing on a label of a container of the substance; and
(2) acts in the manner described in Subdivision (1) of this subsection with
intent to affect the actor's central nervous system, to create or induce a condition
of intoxication, euphoria, hallucination, or elation, or to change, distort, or disturb
the actor's eyesight, thinking process, balance, or coordination.
(b) An offense under this section is a Class C misdemeanor.
SECTION 4. DELIVERY TO A MINOR. (a) Except as provided by
Subsection (d) of this section, a person commits an offense if the person
intentionally or knowingly sells or delivers a substance containing a volatile
chemical to a person under 17 years of age and the volatile chemical is subject to
special labeling requirements established pursuant to the Federal Hazardous
Substances Act, 15 U.S.C. 1261, et seq., as that law existed on January 1, 1983, and
to the federal regulations promulgated pursuant to that Act (16 CFR 1500.14) and in effect on that date.

(b) It is an affirmative defense to prosecution under this section that the person to whom the substance was delivered or sold exhibited to the defendant a draft card, driver’s license, birth certificate, or other official or apparently official document purporting to establish that the person was an individual 17 years of age or older.

(c) It is a defense to prosecution under this section that the person delivering the substance containing the volatile chemical was:

1. a physician, dentist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, analyze, administer, or conduct research with respect to a volatile chemical in the course of professional practice or research and the sale or delivery was within the limits of that person’s official authority; or

2. a pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, administer, or conduct research with respect to a volatile chemical in the course of professional practice or research and the sale or delivery was within the limits of that institution’s official authority.

(d) It is an exception to the application of Subsection (a) of this section that the substance sold or delivered was gasoline, aerosol paint, glue, or adhesive cement.

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

SECTION 5. PROOF OF OFFER TO SELL OR DELIVER REQUIRED. Proof of an offer to sell or deliver under this Act must be corroborated by a person other than the offeree or by evidence other than a statement of the offerer.

SECTION 6. EFFECTIVE DATE. This Act takes effect September 1, 1983.

SECTION 7. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 283 was read second time and was passed to engrossment.

HB 1125 ON SECOND READING
The speaker laid before the house on its second reading and passage to engrossment, HB 1125, A bill to be entitled An Act relating to the creation, operation, and dissolution of enterprise zones.

The bill was read second time.

Representative Mankins offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1
Amend HB 1125 on page 22, after line 6 and before line 7, by inserting the following:

Sec. 22. FEDERAL ENTERPRISE ZONE LAW REQUIRED. A designation of an area as an enterprise zone expires and this Act has no effect on and after September 1, 1985, unless the governor determines, before that date, that a federal enterprise zone law has been enacted.

Committee Amendment No. 1 was adopted without objection.

Representative Wolens offered the following amendment to the bill:

Amend HB 1125 on page 2 line 21 by deleting the word “particularly” and substituting “such as”.

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The amendment was adopted without objection.

HB 1125, as amended, was passed to engrossment. (A. Smith, Toomey, T. Smith, and Pennington recorded voting no)

HB 25 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 25.

CSHB 25

A BILL TO BE ENTITLED
AN ACT
relating to age requirements for applicants for beginning positions within police departments covered by Article 1269m, Vernon's Texas Civil Statutes, as amended.

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

SECTION 1. Section 9, Chapter 325, Acts of the 50th Legislature, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. EXAMINATION FOR ELIGIBILITY LISTS. The Commission shall make provisions for open, competitive and free examinations for persons making proper application and meeting the requirements as herein prescribed. All eligibility lists for applicants for original positions in the Fire and Police Departments shall be created only as a result of such examinations, and no appointments shall ever be made for any position in such Departments except as a result of such examination, which shall be based on the applicant's knowledge of and qualifications for fire fighting and work in the Fire Department, or for police work and work in the Police Department, as shown by competitive examinations in the presence of all applicants for such position, and shall provide for thorough inquiry into the applicant's general education and mental ability. Fire Department entrance examinations may be given at different locations if all applicants are given the same examination and examined in the presence of other applicants. An applicant may not take the examination more than once for each eligibility list. An applicant may not take an examination unless at least one (1) other applicant being tested is present.

An applicant who has served in the armed forces of the United States and who received an honorable discharge shall receive five (5) points in addition to his competitive grades.

The Commission shall keep all eligibility lists for applicants for original positions in the Fire Department or Police Department in effect for not less than six (6) months nor more than twelve (12) months unless the names of all applicants have been referred to the appropriate Department. The Commission shall give a new examination at the end of the twelve (12) month period or sooner, if applicable, or if all names on the list have been referred to the appropriate Department. The Commission shall determine how long each eligibility list shall remain in effect within the six (6) to twelve (12) month period and shall include this information on the eligibility announcement.

Appropriate physical examinations shall be required of all applicants for beginning or promotional positions, and the examinations shall be given by a physician appointed by the Commission and paid for by such city; and in the event of rejection by such physician, the applicant may call for further examination by a board of three (3) physicians appointed by the Commission, but at the expense of the applicant, whose findings shall be final. The age and physical requirements shall be set by the Commission in accordance with provisions of this law and shall be the same for all applicants.
No person shall be certified as eligible for a beginning position with a Fire Department who has reached his thirty-sixth birthday. No person shall be certified as eligible for a beginning position with a Police Department who has reached his thirty-sixth birthday unless the applicant has at least five (5) years prior experience as a peace officer, or 5 years of military experience. No person shall be certified as eligible for a beginning position with a Police Department who has reached his forty-fifth birthday.

All police officers and firemen coming under this Act must be able to intelligently read and write the English language.

When a question arises as to whether a fireman or policeman is sufficiently physically fit to continue his duties, the employee shall submit a report from his personal physician to the Commission. If the Commission, the head of the Department, or the employee questions the report, the Commission shall appoint a physician to examine the employee and to submit a report to the Commission, to the head of the Department, and to the employee. If the appointed physician’s report disagrees with the report of the employee’s personal physician, the Commission shall appoint a board of three (3) physicians to examine the employee. Their findings as to the employee’s fitness for duty shall determine the issue. The cost of the services of the employee’s personal physician shall be paid by the employee. All other costs shall be paid by the city.

A fireman or policeman who has been certified by a physician selected by a firemen’s or policemen’s relief or retirement fund as having recovered from a disability for which he has been receiving a monthly disability pension shall, with the approval of the Commission and if otherwise qualified, be eligible for reappointment to the classified position that he held as of the date that he qualified for a monthly disability pension.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSHB 25 was read second time and was passed to engrossment.

HB 280 ON SECOND READING

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

HB 280, A bill to be entitled An Act relating to peace officers commissioned by school districts in certain counties.

The bill was read second time.

Representative Burnett offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend the caption of HB 280 by striking “in certain counties”.

Committee Amendment No. 1 was adopted without objection.

Representative Eckels offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 2

Amend HB 280 by striking Section 2 of the bill and renumbering Section 3 as Section 2.

Committee Amendment No. 2 was adopted without objection.
HB 280, as amended, was passed to engrossment.

STATEMENT BY REPRESENTATIVE W. HARRISON

Had there been a record vote on HB 2000 by Jackson I would have voted yes.

W. Harrison

HB 1091 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1091.

CSHB 1091

A BILL TO BE ENTITLED
AN ACT
relating to the placement of signs in the rights-of-way of public roads in certain counties; providing penalties.

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

SECTION 1. DEFINITION. In this Act, "sign" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing that is designed, intended, or used to advertise or inform.

SECTION 2. PROHIBITION. In a county with a population of more than 1,700,000, according to the most recent federal census, a person may not place a sign on a public road right-of-way unless the placement is authorized by state law.

SECTION 3. PENALTY. A person commits an offense if the person places a sign in violation of Section 2 of this Act. An offense under this section is a Class C misdemeanor.

SECTION 4. CONFISCATION AND SALE. (a) The county sheriff may confiscate a sign that is placed in violation of Section 2 of this Act.

(b) If the owner of a confiscated sign is known, not later than the 10th day after confiscating the sign, the sheriff shall by certified mail, return receipt requested, notify the owner of the confiscation. If the owner of the sign is not known, not later than the 10th day after confiscating the sign, the sheriff shall publish notice of the confiscation in a newspaper of general circulation in the county. A notice under this subsection must include a description of the sign and the location from which the sign was confiscated and a statement that the owner may reclaim the sign before the 21st day after the date notice was sent or published on payment of all fines that may be imposed under this Act. The notice must state the date, time, and location of the public auction at which the sign will be sold if it is not reclaimed. Notice by publication may contain multiple listings of confiscated signs.

(c) If, on the 21st day after the date notice under Subsection (b) of this section is mailed or published, the sign has not been reclaimed, the sheriff may sell the sign at public auction. At an auction under this section, the sheriff shall sell the sign to the highest bidder.

(d) The sheriff shall remit the proceeds of an auction held under Subsection (c) of this section to the county treasurer for deposit to the credit of any fund in the county treasury as designated by the commissioners court.

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

CSHB 1091 was read second time and was passed to engrossment.
The speaker laid before the house on its second reading and passage to engrossment,

HB 529, A bill to be entitled An Act relating to prohibition of a city's regulation of firearms, ammunition, and firearm supplies.

The bill was read second time.

Representative Stiles offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend HB 529 as follows:
(1) On page 1, line 7, strike "use,".
(2) On page 1, strike Section 2 of the bill and substitute the following:
SECTION 2. EXCEPTIONS. This Act does not affect the authority that a city or town may have under another law:
(1) to require citizens or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose; or
(2) to prohibit or regulate the discharge of firearms within the limits of the city or town.

Representative Leonard offered the following amendment to Committee Amendment No. 1:

Amend the committee amendment to HB 529 on line 7 by deleting the word "require" and substitute therefor the word "allow".

The amendment was adopted without objection.

Committee Amendment No. 1, as amended, was adopted without objection.

Representative Ragsdale moved to table HB 529.

The motion to table was lost.

HB 529, as amended, was passed to engrossment. (Ragsdale, Delco, Burnett, and W. Hall recorded voting no)

MESSAGE FROM THE SENATE

Austin, Texas, May 9, 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:

SB 378 by Traeger and Brown, relating to municipal, regional, or local solid waste and hazardous waste management.

SB 477 by Mauzy, relating to the regulation of marriage and family counselors and to the use of certain fees.

SB 771 by Parmer, relating to registration of members of the legislature who represent other persons before state agencies.

SB 813 by Brooks, relating to the licensing and regulation of speech-language pathologists and audiologists, and declaring an emergency.
SB 982 by Jones, relating to administrative review of property Tax determinations and to the establishment of the Property Tax Appeals Commission.

Respectfully,
Betty King
Secretary of the Senate

HB 1563 ON SECOND READING
The speaker laid before the house on its second reading and passage to engrossment,

HB 1563, A bill to be entitled An Act relating to the composition of a city planning commission.

The bill was read second time.
Representative Hilbert offered the following amendment to the bill:

Amend HB 1563 on page 1, line 7, by striking “City Planning Commission” and substituting “population more than 1,500,000 according to the most recent federal census”.

The amendment was adopted without objection.

HB 1563, as amended, was passed to engrossment. (Simpson recorded voting no)

HB 867 ON SECOND READING
The speaker laid before the house on its second reading and passage to engrossment,

HB 867, A bill to be entitled An Act relating to payment of certain benefits to family and dependents of a deceased insured under group accident and health insurance.

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

HB 2005 ON SECOND READING
The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 2005.

CSHB 2005

A BILL TO BE ENTITLED
AN ACT

relating to the regulation of disposal pits used to store or evaporate oil field brines; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Chapter 91, Natural Resources Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. SALTWATER DISPOSAL PITS

Sec. 91.451. DEFINITION. In this subchapter, “saltwater disposal pit” means a collecting pit on the surface of the ground used to store or evaporate oil field brines, geothermal resource water, or other mineralized water.

Sec. 91.452. PROHIBITED ACTIVITY. Except as provided by this subchapter, a person conducting oil and gas development or production operations, geothermal operations, or underground hydrocarbon storage operations may not use a saltwater disposal pit for storage or evaporation of oil field brines.
Sec. 91.453. COMMISSION AUTHORIZATION. (a) On written application, the commission or its designated employee may administratively authorize a person to use a saltwater disposal pit on a temporary emergency basis.

(b) On written application, the commission or its designated employee may administratively authorize a person to use an impervious surface pit in conjunction with a geothermal operation, an underground hydrocarbon storage operation, or an approved saltwater disposal operation.

(c) An authorization under this section must be in writing and must state the conditions under which any pit may be operated.

Sec. 91.454. REMOVAL OF AUTHORIZED PITS. (a) A person who is authorized to operate a saltwater disposal pit under Section 91.453 of this code shall close the pit within 45 days after being "ordered to close the pit by the commission; provided that the commission may grant an extension or extensions for a reasonable period or periods of time on a showing of good cause or upon request for an extension by the surface owner or owners of the land upon which the pit is situated."

(b) A saltwater disposal pit must be closed in compliance with this subchapter and rules, standards, and specifications adopted by the commission.

(c) In closing a saltwater disposal pit, the person authorized to operate the pit shall remove all salt water and wastes and shall backfill and compact in compliance with commission-approved procedures.

Sec. 91.455. RULES, STANDARDS, AND SPECIFICATIONS. (a) The commission shall adopt rules that:

(1) define the procedures for obtaining authorization to operate a saltwater disposal pit;

(2) define the conditions under which authorizations for saltwater disposal pits will be granted;

(3) establish standards for saltwater disposal pits authorized by the commission;

(4) provide for standards for the proper closing of saltwater disposal pits authorized by the commission; and

(5) provide other standards, procedures, and requirements necessary to carry out this subchapter.

(b) The commission, by rule, shall require:

(1) liner specifications and installation procedures that are adequate to insulate a saltwater disposal pit; and

(2) the draining, cleaning, and closing of saltwater disposal pits.

Sec. 91.456. INJUNCTIVE RELIEF. If a person is operating a saltwater disposal pit in violation of this subchapter or the commission's rules, standards, or specifications, the commission may have the attorney general institute a suit in a district court in the county in which the saltwater disposal pit is located for injunctive relief to restrain the person from continuing to operate the pit in violation of this subchapter or the rules, standards, or specifications of the commission.

Sec. 91.457. REMOVAL OF UNAUTHORIZED PIT. (a) The commission may order a person who is operating a saltwater disposal pit in violation of this subchapter to close the pit in compliance with this subchapter and commission rules, standards, and specifications, at the pit operator's own expense.

(b) If a person ordered to close a saltwater disposal pit under Subsection (a) of this section fails or refuses to close the pit in compliance with the commission's order and rules, the commission shall close the pit and shall direct the attorney general to file suits in any courts of competent jurisdiction in Travis County to recover applicable penalties and the costs incurred by the commission in closing the saltwater disposal pit.

Sec. 91.458. CRIMINAL PENALTY. (a) A person who violates Section 91.452 of this code or an order of the commission under Subsection (a), Section 91.457, commits an offense.
(b) An offense under this section is a Class A misdemeanor.

Sec. 91.459. CIVIL PENALTY. (a) A person who violates this chapter or a rule, standard, or specification of the commission or who fails to close a saltwater disposal pit in compliance with this chapter, a rule, standard, or specification of the commission, an order of the commission, or the authorization for the pit is subject to a civil penalty of not less than $100 nor more than $10,000 for each act of violation or failure to comply.

(b) The attorney general shall recover the civil penalty provided by Subsection (a) of this section in a court of competent jurisdiction.

(c) Any penalties or costs recovered by the attorney general under Section 91.457 of this code shall be deposited in a saltwater disposal fund.

(d) A fund is created in the state treasury to be designated as the saltwater pit disposal fund. Money deposited in the fund and any interest earned on money deposited in the fund shall be used by the commission or its employees or agents for the purpose of closing saltwater disposal pits as provided by this subchapter.

SECTION 2. This Act takes effect September 1, 1983.

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

CSHB 2005 was read second time.

Representative Geistweidt offered the following amendment to CSHB 2005:

Amend the committee substitute for HB 2005 by striking the word "chapter" on page 4, line 3 and substituting the word "subchapter".

Amend the committee substitute for HB 2005 by striking the word "chapter" on page 4, line 5 and substituting the word "subchapter".

The amendment was adopted without objection.

CSHB 2005, as amended, was passed to engrossment.

HB 2154 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 2154.

CSHB 2154

A BILL TO BE ENTITLED
AN ACT

relating to the creation of a commission to examine possible violations of, and to interpret, state ethics provisions.

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

SECTION 1. DEFINITION. In this Act, "ethics provision" means a constitutional provision, a statute, or a rule of a state agency or the Legislature that regulates the conduct of a state officer, as defined by Article 6252-9b, a state employee, a lobbyist required to be registered under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), or a candidate or a campaign treasurer for a candidate for public office. The term includes:

(1) state laws governing the political activities of state officers or employees;
(2) state laws restricting or prohibiting conflicts of interests of state officers or employees;
(3) laws governing the standards of conduct of state officers or employees, including Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes);
(4) Chapter 14, Texas Election Code;
(5) Chapters 36 and 39, Penal Code;
(6) laws regulating nepotism in state government, including Articles 5996a through 5996g, Revised Statutes;
(7) Articles 5428a and 5428b, Revised Statutes; and
(8) Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article
6252-9c, Vernon’s Texas Civil Statutes).

SECTION 2. COMMISSION. The State Ethics Commission is created.

SECTION 3. MEMBERSHIP. (a) The commission is composed of the following members:
(1) three public members who are appointed by the governor;
(2) two public members who are appointed by the lieutenant governor;
(3) two public members who are appointed by the speaker of the state house of representatives;
(4) one member who is appointed by the lieutenant governor and who must be a member of the state senate;
(5) one member who is appointed by the speaker of the state house of representatives and who must be a member of the house;
(6) the secretary of state, or his designee, who is a non-voting member; and
(7) the attorney general, or his designee, who is a non-voting member.
(b) To be eligible for appointment as a public member as prescribed in Subsections (a)(1), (2), and (3) of this section the person may not be at the time of appointment and during service on the commission any of the following, and may not be related within the second degree by affinity or consanguinity to persons who are any of the following:
(1) officers or employees of the state or a political subdivision of the state;
(2) lobbyists required to be registered under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon’s Texas Civil Statutes); or
(3) candidates or campaign treasurers governed by Chapter 14, Texas Election Code.
(c)(A) The governor shall make appointments under Subsection (a)(1) of this section so that no more than two of the public members are affiliated with the same political party.
(B) The lieutenant governor shall make appointments under Subsection (a)(2) of this section so that no more than one of the public members is affiliated with the same political party.
(C) The speaker of the state house of representatives shall make appointments under Subsection (a)(3) so that no more than one of the public members is affiliated with the same political party.
(D) For the purposes of this subsection, a person is affiliated with a political party if the person voted in the primary election held by the party during the two years preceding the day of the person’s appointment.
(e) Appointments to the commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

SECTION 4. TERMS. (a) The appointed members serve for staggered terms of six years, with three members’ terms expiring on February 1 of each odd-numbered year.
(b) A person who has served one full term on the commission is not eligible for reappointment.

SECTION 5. ADDITIONAL FUNCTION OF OTHER OFFICE. The functions performed by each legislative member of the commission are additional functions of the member’s legislative office.
SECTION 6. OFFICERS: QUORUM: MEETINGS. (a) The commission biennially shall elect a chairman and a vice-chairman from its membership.

(b) A majority of the appointed membership of the commission constitutes a quorum.

(c) The commission shall meet at least three times each year as provided by the rules of the commission and shall meet at other times at the call of the chairman. It is a ground for removal from the commission if a member fails to attend at least one-half of the regularly scheduled commission meetings held in a calendar year, excluding meetings held while the person was not a commission member.

SECTION 7. EXPENSES. An appointed member of the commission is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the commission. A legislative appointed member is to be reimbursed from the appropriate fund of the member’s house of the legislature. Other appointed members are to be reimbursed from funds appropriated to the commission.

SECTION 8. VACANCY. A vacancy on the commission shall be filled for the unexpired part of the term in the same manner in which the original appointment was made.

SECTION 9. STAFF. The commission shall use the staff of the secretary of state to provide administrative and clerical support to the commission and may employ an executive director and other staff necessary to administer the commission’s functions. No person shall be employed by the commission who is at the time of his proposed employment, or who has been during the preceding five years, a lobbyist required to be registered under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon’s Texas Civil Statutes).

SECTION 10. RULES. The commission may adopt rules necessary to administer its functions.

SECTION 11. OPINIONS. (a) A person whose conduct is regulated by an ethics provision may request in writing a commission opinion about the application of the provision to an existing or potential fact situation involving that person. The request shall be kept confidential by the commission and it shall prepare a written opinion in response to the request unless the request is determined to be frivolous. The written opinion shall be issued only by a majority vote of the members of the commission and shall be written to maintain the confidentiality of the person making the opinion request.

(b) On its own initiative, the commission may issue a written opinion about an application of an ethics provision when a majority of the commission members determine that an opinion would be in the public interest or in the interest of any person or persons within the jurisdiction of the commission.

SECTION 12. TIME LIMIT FOR WRITTEN OPINION. The commission shall issue a written opinion not later than the 60th day after the day the commission receives the request for the opinion. Opinion requests made by elected officials who are candidates, or by other persons who are candidates for a state office, shall be given priority by the commission when the opinion request relates to an issue within the jurisdiction of the commission.

SECTION 13. LIMITATION ON LIABILITY. (a) It is a defense to prosecution for violation of an ethics provision or to imposition of any civil penalty under an ethics provision, that the person acted in reasonable reliance upon a written opinion of the commission interpreting an ethics provision under the same or substantially the same fact situation.

(b) When the commission issues an opinion concluding that a transaction or activity constitutes the conversion of a contribution to personal use in violation of Section 239d, Texas Election Code, the person committing the conversion will be
immune from civil liability to the State if he returns an amount equal to the amount converted to the political fund from which it was removed. Not later than 48 hours after receiving the opinion, the candidate or officeholder must deposit in the United States Mail a certified letter notifying the commission that the return has been completed as prescribed by this subsection. Notwithstanding the foregoing, a person shall not be granted immunity from civil liability if the conversion occurred under the same or substantially the same fact situation that was the subject of a previously issued written opinion of the commission prohibiting personal use.

(c) The authority of the commission to issue an opinion does not affect the authority of the attorney general or the secretary of state to issue an opinion.

SECTION 14. DISTRIBUTION OF OPINIONS. (a) The commission shall number, compile, and categorize each opinion issued and shall annually compile a summary of its opinions in a single reference document.

(b) Not later than the 30th day after an opinion is issued, the commission shall publish the opinion and assure its adequate public distribution.

SECTION 15. FILING A COMPLAINT. (a) A person may initiate a sworn complaint with the commission alleging a violation of an ethics provision by any state employee, state officer, lobbyist, candidate or campaign treasurer, whose conduct is regulated by an ethics provision of this Act.

(b) A complaint filed under Subsection (a) must be in writing and under oath, and must set forth:

(1) the name and legal address of the party filing the complaint (hereinafter, the complainant);

(2) the name and position or title of the person who is specifically alleged to have committed the violation (hereinafter, the respondent);

(3) the nature of the alleged violation, including if possible the specific provision of law, rule, or regulation alleged to have been violated; and

(4) a statement of the facts alleged to constitute the violation.

(c) The complaint must be accompanied by an affidavit stating that the information contained therein is either true and correct or that the complainant has good reason to believe and does believe that the violation has occurred. In the event the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief. The complainant shall swear to the facts either by oath or affirmation before a notary public or other authorized official.

(d) All documents in the possession of the complainant relevant to or in support of his allegations may be appended to the complaint.

(e) Upon receipt of a sworn complaint the commission shall determine whether the complaint is in substantial compliance with subsections (b) and (c) of this section. In the event the complaint does not comply thereto, the complaint shall be returned to the complainant with a statement explaining how the complaint fails to comply.

(f) A sworn complaint that is determined by the commission to be in substantial compliance shall be transmitted to the respondent within five days of that determination.

(g) If the commission finds that the allegation in the complaint, if true, would not constitute a violation of an ethics provision, or is not within the commission's jurisdiction, or that the complaint is frivolous, the commission shall dismiss the complaint and notify the complainant and respondent in writing of this action.

(h) The commission shall not accept a complaint against any person who is a candidate for public office, and whose conduct is regulated by an ethics provision, that is filed within thirty (30) days prior to the date of any primary, general, runoff, or special election involving a person who is the subject of the complaint. At other times, the commission shall give priority to any complaint received against a
candidate for public office in order to make a prompt determination as to whether a violation of an ethics provision has occurred.

SECTION 16. INITIAL REVIEW. (a) The commission shall promptly commence an initial review whenever it has received a sworn complaint that the commission has determined is in compliance with the requirements of Section 15, or when a majority of the members of the commission determine that there is probable cause to believe on the basis of information before it that a violation of an ethics provision has occurred. The commission shall promptly notify the complainant, if any, and the respondent, if any, that an initial review will begin.

(b) The initial review shall determine whether there is substantial evidence to conclude that a violation of an ethics provision has occurred.

(c) An initial review shall include an opportunity for any known respondent or his designated representative to present a written or oral statement, or to respond to questions from the commission.

(d) Upon completion of an initial review, unless the commission finds by a majority vote that there is substantial evidence to conclude that a violation of an ethics provision has occurred, it shall dismiss the complaint and notify the complainant and respondent in writing of its action.

(e) If the commission finds by a majority vote that there is substantial evidence to conclude that a violation of an ethics provision has occurred, but that the alleged violation is technical or of a de minimis nature, the commission may issue a summary of its findings and may include a recommendation to correct or prevent the violation.

(f) The commission may determine, by a majority vote of the full commission, that there is substantial evidence to conclude that a violation of an ethics provision has occurred and shall order that a formal inquiry promptly be conducted in accordance with Section 17. The commission shall give written notice to the respondent and complainant within 5 days of its determination to begin a formal inquiry.

SECTION 17. FORMAL INQUIRY. (a) In conducting a formal inquiry, the Commission may include any inquiries or interviews, take sworn statements, use process described in Section 21, conduct hearings or take other appropriate actions to secure evidence necessary to determine that a violation of an ethics provision has occurred.

(b) A formal inquiry shall include an opportunity for any known respondent or his designated representative to have a hearing before the Commission and to obtain issuance of subpoenas for the appearance of witnesses or the production of documents on his behalf. Upon written request, the respondent shall be provided the following information and documents:

(1) a list of proposed witnesses to be called at the hearing;

(2) copies of all documents expected to be introduced as exhibits at the hearing;

(3) a brief statement as to the nature of the testimony expected to be given by each witness called at the hearing.

(c) The information and documents shall be provided within fifteen (15) days following receipt of the respondent's request, and in no event shall the hearing be commenced within five (5) days of the receipt by the respondent of the requested information and documents.

(d) In accepting the information and documents in Subdivisions (1), (2) and (3) of Subsection (b), the respondent shall comply with requirements of confidentiality unless confidentiality has been waived by respondent pursuant to Section 19 of this Act.

(e) Upon completion of the formal inquiry, the commission shall issue a final report of its findings, and shall, within five (5) days, provide a copy of its findings
to the respondent and the complainant. If, by a majority vote of the full
commission, the commission determines by a preponderance of the evidence that
a violation of an ethics provision has occurred, it shall promptly refer the complaint
and a record of its findings to the attorney general, appropriate prosecuting attorney,
the head of a state agency, or a body of the state legislature, having jurisdiction to
take appropriate action on the matter.

SECTION 18. PROCEDURES CUMULATIVE. The complaint procedures
outlined in this Act are cumulative of other available procedures for investigation
and enforcement of a violation of an ethics provision. This Act does not preclude
the filing of a complaint directly with a prosecuting attorney and does not preclude
investigations and prosecutions by a prosecuting attorney or actions by the attorney
general without a referral from the Commission.

SECTION 19. COMMISSION RECORDS. (a) The commission shall
maintain a record of its proceedings and inquiries. All testimony taken in hearings
before the commission shall be electronically recorded and maintained in the
records of the commission.
(b) Confidentiality of testimony taken in closed meetings of the commission
shall be maintained, provided, however, the respondent shall be provided with a
transcript of all proceedings subject to a requirement of nondisclosure as established
by the commission.
(c) Complaints, documents, and other information collected by the
commission are confidential and shall not be disclosed to a person who is not a
member, agent, or employee of the commission, or the respondent in the complaint
proceeding for which the information was collected, except as this information may
be revealed in public hearing pursuant to Section 20 of this Act. In case of conflict
with the Open Records Act, Chapter 424, Acts of the 63rd Legislature, Regular
Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), this Act shall
prevail. By written notice to the commission, a respondent may waive the right of
confidentiality in this section, provided, however, the waiver must apply to all
materials in the possession of the commission relating to the complaint against the
respondent.
(d) The disclosure of information declared confidential by this Act shall be
subject to the same penalties as provided by Section 10, Chapter 424, Acts of the
63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil
Statutes).

SECTION 20. OPEN AND CLOSED MEETINGS. (a) Proceedings of the
commission involving non-elected state officers or employees, shall be closed to the
public, unless written request is made by the respondent for all proceedings to be
open to the public.
(b) Proceedings of the commission involving elected state officers and
employees, lobbyists, and candidates whose conduct is regulated by an ethics
provision, shall be closed to the public prior to the initiation of a formal inquiry,
unless written request is made by the respondent for all proceedings to be open to
the public.
(c) Proceedings of the commission involving consideration of requests for and
issuance of advisory opinions shall be closed to the public to the extent necessary
to maintain the anonymity of the party requesting the opinion.
(d) Except as provided in Subsections (a), (b) and (c) above, the proceedings
of the commission shall be in accordance with the provisions of the Texas Open
Meetings Act (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 21. OATHS, DEPOSITIONS, AND SUBPOENAS. (a) To
enforce and administer its functions, the commission may administer oaths, take
depositions, and issue subpoenas within the state in the name of the chairman of
the commission to secure witnesses or to secure the production of correspondence,
books, papers, documents, and other items it deems advisable. All process issued by the commission shall be served by an agent of the commission or any peace officer of the State of Texas.

(b) If a person fails to comply with a subpoena issued by the commission, the commission may apply to a court of competent jurisdiction to compel obedience by proceedings for contempt.

SECTION 22. APPLICATION OF SUNSET ACT. The commission is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the commission is abolished and Sections 1-23 of this Act expire September 1, 1995.

SECTION 23. INITIAL APPOINTEES AND MEETING. (a) In making the initial appointments to the commission, the governor, lieutenant governor, and speaker of the house of representatives shall designate their appointees so that:

1. one of the governor's appointees, one of the lieutenant governor's appointees, and one of the speaker's appointees serves for a term expiring February 1, 1985;

2. one of the governor's appointees, one of the lieutenant governor's appointees, and one of the speaker's appointees serves for a term expiring February 1, 1987;

3. one of the governor's appointees, one of the lieutenant governor's appointees, and one of the speaker's appointees serves for a term expiring February 1, 1989.

(b) The governor shall fix a time and place at which the commission shall meet for an organizational meeting. At that meeting, the commission shall elect its initial chairman and vice-chairman.

SECTION 24. AMENDMENTS. Section 6(a), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The secretary of state shall compile, index, and publish a publication to be known as the Texas Register, which shall contain:

1. notices of proposed rules issued [after the effective date of this Act] and filed in the office of the secretary of state as provided in Section 5 of this Act;

2. the text of rules adopted [after the effective date of this Act] and filed in the office of the secretary of state;

3. notices of open meetings issued [after the effective date of this Act] and filed in the office of the secretary of state as provided by law;

4. executive orders issued by the governor [after the effective date of this Act];

5. summaries of requests made [after the effective date of this Act] for opinions of the attorney general and of the state Ethics Commission, which shall be prepared by the attorney general or the commission, as appropriate, and forwarded to the secretary of state;

6. summaries of opinions of the attorney general and of the State Ethics Advisory Commission [issued after the effective date of this Act], which shall be prepared by the attorney general or the commission, as appropriate, and forwarded to the secretary of state; and

7. other information of general interest to the public of Texas, which may include, but is not limited to, federal legislation or regulations affecting the state or state agencies and state agency organizational and personnel changes.

SECTION 25. EFFECTIVE DATE. This Act takes effect September 1, 1983.

SECTION 26. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.
CSHB 2154 was read second time.

(Speaker pro tempore in the chair)

Representative Turner offered the following amendment to CSHB 2154:

Amend CSHB 2154 as follows:

1. On page 15, line 22, by striking the word “state” after the word “the” and inserting “State”.
2. On page 15, line 27, after the word “Ethics” but before the word “Commission” by striking the word “Advisory”.

The amendment was adopted without objection.

Representative Bush offered the following amendment to CSHB 2154:

Amend CSHB 2154 by adding after the word “governor;” on page 2, line 8, the following: “one of whom shall be a person of black descent, one of whom shall be a person of Hispanic descent, and one of whom shall be a woman.”

The amendment was adopted without objection.

Representative Wolens offered the following amendment to CSHB 2154:

Amend CSHB 2154 on page 6, line 20, by deleting “Not later than 48 hours after” and substituting in lieu thereof the following: “Within 4 business days of”.

The amendment was adopted without objection.

A record vote was requested.

CSHB 2154, as amended, was passed to engrossment by (Record 334): 125 Yeas, 17 Nays, 3 Present, not voting.

Yees — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga(C); Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Clark; Clemens; Colbert; Collazo; Connelly; Coody; Craddick; Danburg; Davis; Delco; Denton; Edwards; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Haley; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, W.; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kubik; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Oliveira; Oliver; Patrick; Patronella; Pennington; Peveto; Pierce; Polk; Polumbo; Prensal; Price; Ragsdale; Rangel; Robinson; Robnett; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Wallace; Watson; Whaley; Wieting; Wilson; Wolens; Word; Wright.

Nays — Agnich; Blanton; Ceverha; Criss; Crockett; DeLay; Eckels; Harrison, D.; Heflin; Horn; Mankins; Moreno, P.; Parker; Patterson; Rudd; Valles; Willis.

Present, not voting — Mr. Speaker; Geistweidt; Vowell.

Absent, Excused — Hackney; Hall, L.; Sutton.

Absent — Uher; Waldrop.
The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1054.

CSHB 1054

A BILL TO BE ENTITLED
AN ACT
relating to the regulation of credit unions; providing penalties.

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

SECTION 1. Section 1.02, Texas Credit Union Act (Article 2461-1.02, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 1.02. DEFINITIONS [DEFINITIONS AND PURPOSES]. In this Act:

(1) “Credit union,” unless the context relates to a federal credit union, means a voluntary, cooperative, nonprofit financial [savings] institution, authorized to do business in this state [incorporated] under this Act for the purposes of encouraging thrift among its members, creating a source of credit at [a] fair and reasonable rates [rate of interest, and] providing an opportunity for its members to use and control their own money in order to improve their economic and social condition, and conducting any other business, engaging in any other activity, and providing any other service that may be of benefit to its members, subject to this Act and the rules adopted under this Act.

(2) “Commission” means the Credit Union Commission.

(3) “Commissioner” means the Credit Union Commissioner.

(4) “Department” means the Credit Union Department.

(5) “Deputy commissioner” means the Deputy Credit Union Commissioner.

SECTION 2. Chapter 1, Texas Credit Union Act (Article 2461-1.01 et seq., Vernon’s Texas Civil Statutes), is amended by adding Section 1.05 to read as follows:

Sec. 1.05. PURPOSES. The purposes of the legislature in enacting this Act are to safeguard the public interest, to promote public confidence in credit unions doing business in this state, to provide for the protection of the interests, shares, and deposits of credit unions, to delegate to the department rulemaking and discretionary authority that may be necessary to assure that credit unions operating under this Act may be sufficiently flexible and readily responsive to changes in economic conditions and practices, to maintain sound credit union growth and financial integrity, fiscal responsibility, and independent judgment in the management of the business affairs of credit unions, to permit credit unions to effectively provide a full array of financial and financially-related services, to provide effective supervision and regulation of credit unions, and to clarify and modernize the law governing the credit unions doing business in this state. It is also the intent of the legislature that this Act be liberally construed to accomplish and effectuate these purposes. Therefore, this Act is declared to be the public policy of this state and necessary to the public welfare.

SECTION 3. Section 2.01, Texas Credit Union Act (Article 2461-2.01, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 2.01. INCORPORATORS. Any seven or more adult individuals [persons], a majority of whom are residents of this state, each of whom has subscribed for at least 10 shares and all of whom share the [a] definable community of interest stated in the proposed articles of incorporation, may apply to incorporate [act as incorporators of] a credit union under this Act by signing, subscribing before an officer competent to administer oaths [verifying], and delivering in duplicate to the commissioner articles of incorporation for the credit union. The submission of an application constitutes a representation by the incorporators that they desire to
avail themselves, and those persons comprising the field of membership of the
proposed credit union whom they represent, of the benefits of this Act, and that they
bind themselves to comply with all laws, rules, and regulations applicable to credit
unions doing business in this state.

SECTION 4. Section 2.02, Texas Credit Union Act (Article 2461-2.02, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.02. ARTICLES OF INCORPORATION. The articles of incorporation shall set forth:

1. the name of the proposed credit union, which contains the words "credit union" and is different from that of any other existing credit union;
2. the name of the town or city and county where the proposed credit union will have its principal place of business;
3. the term of existence of the credit union, which shall be perpetual;
4. the fiscal year of the credit union, which must be the [ends on December 31 of each] calendar year;
5. the initial share accounts [par value of the shares] of the credit union; which shall be $5, or multiples thereof;
6. the name and address of each incorporator and the number of shares subscribed by each; [and]
7. the number of directors constituting the initial board of directors and the names and addresses of the persons who will serve as directors until the first annual meeting or until their [duly elected] successors are duly elected and qualified; and [qualify];
8. a description of the definable community of interest shared by the members of the credit union.

SECTION 5. Section 2.03, Texas Credit Union Act (Article 2461-2.03, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.03. FILING OF ARTICLES OF INCORPORATION. (a) The incorporators shall file with the commissioner:

1. a duplicate of the original articles of incorporation in duplicate;
2. standard [a duplicate of the original] bylaws for the general operation of the credit union in duplicate; [and]
3. a completed application in a form [biographical information concerning each member of the original board of directors, entered on forms] prescribed by the commission; and
4. the fees required and set by the commission [commissioner and signed by each member].

(b) The commissioner may conduct any investigation and obtain any information or report from any person, including a law enforcement agency, that the commissioner considers necessary [With the approval of the commission, the commissioner shall have uniform uniform charter fee and uniform investigation and report charges for all credit unions. The department shall publish the fees and rates for charges set by the commissioner].

(c) The commission shall adopt rules establishing procedures concerning notice of applications to incorporate and conditions under which a hearing may be available [The commissioner may investigate the charter application, bylaws, and the biographical information concerning each director named in the application to determine whether the proposed credit union and its initial board of directors meet the requirements of this Act and of the regulations promulgated under this Act].

(d) The commissioner shall approve the application for incorporation if the incorporators have complied with this Act and the rules adopted under this Act and the commissioner finds from the information furnished with the application, the results of any investigation, the evidence submitted at any hearing, and the information in the official records in the department that:
(1) the character and general fitness of the incorporators and the members of the initial board of directors warrant belief that the business and affairs of the credit union will be properly administered in accordance with this Act and the rules adopted under this Act;

(2) the character and size of the field of membership proposed to be served by the credit union conforms with this Act and the rules adopted under this Act and are favorable to the economic viability of the credit union;

(3) the incorporators and the members of the initial board of directors are acting in good faith and are making the application in accordance with the purposes of this Act; [If the proposed credit union or its initial board of directors does not meet the requirements of this Act and of the regulations promulgated under this Act, the commissioner shall deny the application in writing. If the incorporators file a written notice of appeal with the commissioner within 30 days after denial of the application, the commissioner shall set a date for a hearing on the application. On that date, the commissioner shall hold a hearing in accordance with the regulations promulgated under this Act.]

(e) Not later than 90 days after the later of the date on which an application is filed or the date on which a hearing on the application is held, the commissioner shall state his findings in a written order that approves or denies the application to incorporate.

(f) The commission shall adopt rules providing for appeal by an incorporator or aggrieved person. The commissioner's order may be appealed to the commission not later than 60 days after the date of the order. The commission shall, by written order, affirm or reverse the decision of the commissioner after reviewing the information or evidence it considers necessary or relevant.

(g) An order of the commissioner or commission shall be promptly mailed to the incorporators by registered or certified mail. If the application is approved by the commissioner, an order shall be issued, deliver [and shall return] copies of the approved articles of incorporation and bylaws to the incorporators, and retain copies of these documents in the department's permanent files.

SECTION 6. Section 2.04, Texas Credit Union Act (Article 2461-2.04, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.04. EFFECT OF ISSUANCE OF CERTIFICATE OF INCORPORATION. The corporate existence of a credit union begins at the time the commissioner issues a certificate of incorporation. The certificate of incorporation is conclusive evidence of the incorporators' compliance with the requirements of this Act and of the credit union's incorporation under this Act. The acceptance of a certificate of incorporation is conclusive evidence of the authorization of the credit union to do business under this Act, and of the representation by the incorporators on behalf of the credit union that it has availed itself of the benefits of this Act and has bound itself to comply with this Act and the rules adopted under this Act.

SECTION 7. Section 2.05, Texas Credit Union Act (Article 2461-2.05, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.05. [REQUIREMENT—BEFORE] COMMENCING BUSINESS. (a) A credit union may not transact any business or incur any indebtedness, except such as is incidental to its organization or to obtaining subscriptions to or payment for its shares or deposits, until:

(1) it has received [minimum] paid-in shares or deposits [capital] of at least $1,000;
(2) it has a membership of at least 100 persons; and
(3) it has so notified the department.

(b) The commission may adopt reasonable rules requiring greater minimum membership and paid-in shares or deposits and prescribing additional requirements that a credit union must meet before transacting business or incurring indebtedness. The commissioner may waive any requirement that is set forth in this section or in the rules adopted under this section if the commissioner finds that the credit union does not have supervisory problems that adversely affect its ability to operate properly and that it is adequately capitalized.

(c) A credit union shall commence business before six months after the date of the order approving its application to incorporate. If it has not timely commenced business, the commissioner, on request and good cause shown, may grant a reasonable extension of the time for commencing business to give the credit union an opportunity to overcome the cause for the delay. If the commissioner refuses the request for an extension, the incorporators may appeal the commissioner's decision to the commission in accordance with rules adopted by the commission. If a credit union fails to commence business within the time allotted, the commissioner may cancel the certificate of incorporation in accordance with rules adopted by the commission.

SECTION 8. Section 2.06, Texas Credit Union Act (Article 2461-2.06, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.06. FORM OF [RIGHT TO—AMEND] ARTICLES OF INCORPORATION AND BYLAWS; AMENDMENTS. (a) In order to simplify the process of organizing new credit unions, the commission shall prepare standard articles of incorporation and bylaws, which shall be used by credit union incorporators. These articles of incorporation and bylaws shall be made available without charge to persons desiring to organize a credit union.

(b) The board of directors [a credit union] may amend the [its] articles of incorporation or [its] bylaws and [in the manner provided in its bylaws. A credit union] shall submit amendments to [its articles of incorporation or bylaws to] the commissioner [in duplicate]. The commissioner shall approve or disapprove an amendment in writing not later than 60 days after the date of submission. The commissioner may not approve an amendment if the commissioner finds that it violates this Act or the rules adopted under this Act. The commissioner shall state the reasons for a disapproval with reasonable specificity. Amendments [to articles of incorporation or bylaws] become effective on approval by [at the time the commissioner issues a certificate of approval].

(c) The board of directors shall report an amendment to the membership of the credit union not later than the next membership meeting after approval by the commissioner. If the commissioner disapproves the amendment, the credit union may appeal the decision to the commission not later than 60 days after the date of the disapproval.

SECTION 9. Section 2.07, Texas Credit Union Act (Article 2461-2.07, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.07. RESTRICTIONS ON USE OF NAME. (a) No person; corporation; partnership; or association, other than a credit union authorized to do business in this state [or association of credit unions organized under this Act or the Federal Credit Union Act, or an organization, corporation, or association the membership or ownership of which is primarily confined to credit unions or credit union organizations, may use a name or title containing the words "credit union" or any derivation thereof, represent itself as a credit union, [or] conduct business as a credit union, or do business under a name or title that indicates or reasonably implies that the person carries on or transacts the kind of business carried on or
transacted by a credit union or that is calculated to lead any person to believe that
the business is that of a credit union.

(b) A person who violates Subsection (a) of this section commits a Class A misdemeanor punishable by a fine of not more than $5,000, by confinement in jail for not more than two years, or both. The commissioner may petition a court of competent jurisdiction to enjoin a violation of this section.

(c) The name of each credit union must include the words "credit union" and an appropriate descriptive word or words approved by the commissioner.

(d) The commissioner may not issue a certificate of incorporation to a credit union or approve the change of the name of an existing credit union if doing so would result in the credit union having the same name as any other credit union authorized to do business in this state or a name so nearly resembling it as to be calculated to deceive, except in the case of a credit union formed by merger or consolidation.

SECTION 10. Section 2.08, Texas Credit Union Act (Article 2461-2.08, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 2.08. PLACE OF BUSINESS. A credit union shall maintain on its principal place of business and shall file with the department a statement specifying the street and post office address of its principal place of business. If a credit union gives the commissioner prior written notification, a credit union may establish and maintain, at locations other than its principal place of business, additional offices and service facilities that are reasonably necessary to furnish services to its members.

SECTION 11. Section 2.09, Texas Credit Union Act (Article 2461-2.09, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 2.09. REPORTS. On or before February 1 of each year, each credit union authorized to do business under this Act shall report to the department on a form supplied by the department for this purpose. On filing the report, a credit union shall pay to the commissioner the required filing fee of $40, except no credit union chartered within the preceding six-month period is required to pay a filing fee. The commission shall set a reasonable fee for processing a report. The commissioner may, in its discretion, require a credit union to file additional reports. If a credit union does not file a report or pay the filing fee before the 16th day after the day it is due, the commissioner shall charge a late fee in an amount set by the commissioner for each day that the report or fee is in arrears, except the commissioner may waive payment of all or part of the late fee for good cause shown. Failure of a credit union to file a report before the 31st day after the date it is due constitutes grounds for imposing the sanctions provided by Chapters 5 and 10 of this Act.

SECTION 12. Section 2.10, Texas Credit Union Act (Article 2461-2.10, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 2.10. EXEMPTION FROM CERTAIN TAXES. Each credit union authorized to do business in this state is exempt from all franchise and other license taxes. However, a credit union is exempt from the franchise tax imposed by Chapter 171, Tax Code, only if the credit union is exempted by that chapter. The intangible property of a credit union organized under this Act is not taxable by the state or any of its political subdivisions.

SECTION 13. Chapter 2, Texas Credit Union Act (Article 2461-2.01 et seq., Vernon’s Texas Civil Statutes), is amended by adding Section 2.11 to read as follows:

Sec. 2.11. OUT-OF-STATE CREDIT UNIONS. A credit union organized under the laws of another state may do business in this state if it is organized in a
The out-of-state credit union is subject to the rules adopted under this Act and any additional requirements established by the commission. The commissioner may suspend or revoke an out-of-state credit union's authority to do business in this state if the commissioner finds that the credit union has violated the rules adopted under this Act or fails to meet the requirements established by the commission.

SECTION 14. Section 3.01, Texas Credit Union Act (Article 2461-3.01, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.01. MEMBERSHIP DEFINED. (a) Membership in a credit union is limited to the incorporators and other persons, including incorporated and unincorporated organizations, who:

1. share a definable community of interest, in accordance with the articles of incorporation [bylaws] of the credit union, including a community of interest based on occupation, association, or residence;
2. have paid an entrance fee or membership fee, or both, as [if one is] required by the bylaws;
3. have complied with the minimum share, including membership share, requirements and other qualifying account requirements established by the board of directors [subscribed to and paid for one or more shares]; and
4. have complied with any other requirements contained in the articles of incorporation and bylaws.

(b) For the purposes of Subsection (a) of this section, the State of Texas acting through the state comptroller as administrator of the State of Texas deferred compensation program or a political subdivision acting through the appropriate officer of the political subdivision as administrator of the political subdivision's deferred compensation program shall be considered a person for membership qualifications in order to fund a deferred compensation program. Notwithstanding the provisions of Subsection (a) of this section, the payment of an entrance fee may not be a membership requirement for the State of Texas or a political subdivision funding a deferred compensation program.

(c) A member who leaves the field of membership may be permitted to retain membership in the credit union under reasonable standards established by the board of directors.

(d) A member may be expelled for good cause or for failure to maintain the requirements necessary for membership in the credit union, under the conditions and in accordance with the procedures provided in the bylaws.

SECTION 15. Section 3.02, Texas Credit Union Act (Article 2461-3.02, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.02. MEETINGS OF MEMBERS. Members of a credit union shall hold annual and special meetings at the time, place, and in the manner provided in the bylaws. In determining a question requiring action by the members [At annual meetings], each member may cast [has] only one vote, regardless of his shareholdings, which vote may be cast by mail if authorized by the board of directors. No member may vote by proxy, except a member that is an organization may be represented and vote by one of its members or shareholders who is authorized, in writing, by the organization's governing body to represent the organization. Mail balloting shall be conducted in accordance with rules adopted by the commission.

SECTION 16. Section 4.01, Texas Credit Union Act (Article 2461-4.01, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.01. GENERAL POWERS. (a) A credit union may exercise all powers necessary or appropriate to accomplish the purposes for which it is organized and all powers granted corporations organized to do business in this state. These powers include, but are not limited to, the power to [Subject to the provisions of this Act,
the articles of incorporation, and the bylaws of the credit union; each credit union organized under this Act may:

(1) make contracts;
(2) sue and be sued in the name of the credit union;
(3) adopt and use a common seal and alter its seal at pleasure;
(4) purchase, hold, lease, or dispose of property necessary or incidental to its operations or purposes, subject to rules [regulations] issued by the commission [commissioner];
(5) [require the payment of an entrance or membership fee not to exceed $1;]
(6) receive [from its members] payments on shares and [or] deposits and to provide for the transfer and withdrawal of funds from accounts by the means and through the payment systems that the board of directors determines best serve the convenience and needs of members and depositors;
(6a) develop and offer to its members and depositors, in accordance with rules adopted by the commission, investment programs and in connection with those programs issue and sell securities;
(7) act as agent for its members and depositors, in accordance with rules adopted by the commission, in the purchase, sale, or other disposition of securities, interests in mutual funds, and interests or participations in any other type of investment [conduct Christmas clubs, vacation clubs, and other thrift programs for the membership];
(8) [§] act as [fiscal] agent or depository of the United States, any under such regulations as the secretary may promulgate; as agent or [any] instrumentality of the United States, [and as agent of] this or any other state, or any city, town, village, county, school district, municipal corporation, political subdivision, or taxing authority [governmental division or instrumentality] of this or any other state, accept for deposit the funds of such an entity, or both;
(9) [§§] lend its funds [to its members] in accordance with applicable law;
(10) [§§] purchase or otherwise provide insurance for the benefit or convenience of its members;
(11) [§§] borrow money from any source, but if, after incurring a debt, the total debt of the credit union will exceed an amount equal to 25 percent of its shares, deposits, and surplus, the debt may not be incurred without the prior approval of the commissioner, and the commissioner shall grant or deny a request for approval under this subdivision [subsection] within 10 days after it is made;
(12) [§§] act under the order or appointment of any court of record, without giving bond, as guardian, receiver, trustee, executor, administrator, and [custodian; or] as depository for any money paid into court and for [members; act as depository for] any money constituting the estates of deceased persons, minors, or incompetents [members; accept funds or money for deposit by fiduciaries; trustees; or receivers; if managing or holding funds in behalf of a credit union or one or more members of the credit union; accept funds or money for deposit by building and loan associations, savings departments of banks, commercial banks, savings banks and trust companies, or insurance companies if the membership or the primary ownership of the institutions, associations, or companies is confined or restricted to or for the benefit of credit unions and their members or organizations of credit unions, or if the institutions, associations, or companies are designed to serve or otherwise assist credit union operations, and act as custodian of individual retirement accounts; custodian of pension funds of self-employed individuals or of the sponsor of a credit union; or as trustee under pension and profit-sharing plans; and all powers granted under the provisions of this subsection are subject to standards prescribed by regulations promulgated under this Act];
(13) accept and execute any trust and accept funds or money for deposit by fiduciaries, trustees, or receivers;
(14) accept funds for deposit by savings and loan associations, savings associations, savings departments of banks, commercial banks, savings banks, trust companies, insurance companies, or any intermediary or other person managing or holding funds on behalf of the credit union or any of its members or depositors;
(15) act as custodian or trustee of individual retirement accounts, pension funds of self-employed individuals or of the sponsor of a credit union, or as custodian or trustee under any other pension or profit-sharing plan; make deposits in legally chartered banks, trust companies, and central-type credit union organizations; and purchase shares and invest in savings and loan associations;
(16) hold membership in other credit unions organized under this Act or other laws; and hold membership in other organizations as may be approved by the board of directors;
(17) declare and pay dividends on shares, contract for and pay interest on deposits, and pay interest refunds to borrowers; and
(18) impress a lien on the shares and accumulation of dividends and interest of any member to the extent of any loans made to the member directly or indirectly, or on which the member is surety, and for any other obligations due by the member;
(19) change its principal place of business to another place in the state, or change the location in the state of any subsidiary places of business, on giving written notice to the commissioner;
(20) levy and collect fees and charges determined by the board of directors for other services and a charge [not to exceed reasonable administrative costs including, but not limited to, a charge for a [check fee]] for each check negotiated to the credit union by a member or other person if the check or draft is returned [by the drawee bank] because it is drawn against a closed account or an account containing insufficient or uncollected funds, because of [there is a stop payment order, or because of another [the account on which it is drawn is closed, or it is drawn against uncollected funds, or if it is returned for a similar reason]; these charges are [this charge is] in addition to interest authorized by law and are [not a part of] interest collected or agreed to be paid on a [subject loan [under any state law that limits the rate of interest that may be charged in any transaction], but are expenses [the charge is an expense] of administration;
(21) establish, operate, or participate in systems that allow the transfer of credit union funds or the shares or deposits of members by electronic or other means, including but not limited to clearinghouse associations, data processing and other electronic networks, the Federal Reserve System, or any other government payment or liquidity programs;
(22) make donations or contributions to any nonprofit, civic, charitable, or community organization as authorized by the board of directors [subject to rules and regulations promulgated by the commissioner and subject to federal or state laws regulating these contributions];
(23) operate as a central credit union, with the approval of the commissioner; and
(24) cause any or all records kept by the credit union to be copied [or reproduced] by any means [photostatic, photographic, electronic, or microfilming process that correctly and permanently copies; reproduces; or forms a medium for copying; or reproducing the original record on a file or other durable material subject to any regulations promulgated by the commissioner] and dispose of the original record; and

(25) act as fiscal agent or transfer agent, receive and disburse money, transfer registered and countersigned certificates of stock, bonds, or other evidences of indebtedness, and guarantee signatures.

(b) Any copy of a record [or reproduction] shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification, or certified copy shall, for all purposes, be deemed a facsimile, exemplification, or certified copy of the original record.

SECTION 17. Section 4.02, Texas Credit Union Act (Article 2461-4.02, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.02. INCIDENTAL POWERS. A credit union may exercise all rights, privileges, and incidental powers necessary or appropriate to exercise its specific powers and to accomplish the purposes for which the credit union is organized. [A credit union may exercise the powers granted corporations organized under the laws of this state, including those powers necessary or requisite to enable the credit union to promote and carry on most effectively its purposes.]

SECTION 18. Section 4.03, Texas Credit Union Act (Article 2461-4.03, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.03. CONFORMITY TO FEDERALLY CHARTERED CREDIT UNIONS. Notwithstanding any other law, the commissioner [The commissioner] by rule [or regulation] may authorize a credit union authorized to do business under this Act to engage in any activity in which it [the credit union] could engage, exercise any power it could exercise, or make any loan or investment it could make, if it [they] were operating as a federal [federally chartered] credit union [unions at the time authority is granted, if on investigation or hearing, the commissioner finds it necessary to preserve and protect the welfare of the credit unions and to promote the general economy of this state].

SECTION 19. Section 5.01, Texas Credit Union Act (Article 2461-5.01, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.01. MANAGEMENT. The business and affairs of a credit union shall be directed [are managed] by a board of directors of not less than five members; by a credit committee of not less than three members, and by those officers prescribed in the bylaws of the credit union. Each director shall take and subscribe to an oath or affirmation that the director will diligently and honestly perform his duties in administering the affairs of the credit union, that while the director may delegate to others the performance of those duties, he is not relieved from his responsibilities for the performance of the duties, and that the director will not knowingly violate or willingly permit to be violated any law or rule applicable to the credit union.

SECTION 20. Section 5.02, Texas Credit Union Act (Article 2461-5.02, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.02. CERTIFICATE OF ELECTION. The chairman of the board and the secretary shall execute a certificate of election that sets forth the names and addresses of the officers, directors, and committee members elected or appointed, and shall file a copy of the certificate of election with the department within 30 days after the election or appointment. The commission by rule may authorize the commissioner to obtain other confidential reports relating to those persons when they are newly elected or appointed.
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SECTION 21. Section 5.03, Texas Credit Union Act (Article 2461-5.03, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 5.03. BOARD OF DIRECTORS. (a) Directors of the credit union are elected at an annual membership meeting, by and from the membership, and in the manner provided in the bylaws.

(b) The duties of the board of directors must be [are] prescribed by the bylaws.

(c) The terms of the members of the board of directors must be [are] prescribed in the bylaws, except that a term may not exceed three years. Directors may serve more than one term.

(d) The board of directors may appoint not more than three individuals to serve at the pleasure of the board as honorary or advisory directors to advise and consult with the board and otherwise aid the board in carrying out its duties and responsibilities. An honorary or advisory director need not be eligible for membership in the credit union. An honorary or advisory director is not considered a member of the board of directors and is not entitled to vote on any matter before the board. He may participate, however, in all deliberations of the board.

(e) The board of directors may appoint from its membership an executive committee of not less than three persons to exercise, between meetings of the board of directors, authority specifically delegated by the board under conditions specified by the board. The board of directors shall elect from its own number a chairman, who shall preside at all meetings of the board. The board shall elect from its own members a treasurer and secretary of the credit union.

SECTION 22. Section 5.04, Texas Credit Union Act (Article 2461-5.04, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 5.04. OFFICERS. (a) The board of directors shall elect from its membership the following officers of the credit union: a chairman, a vice-chairman, a treasurer, and a secretary, each of whom shall serve for one year or until his successor is elected and qualified, and each of whom has the duties prescribed in the bylaws.

(b) The board of directors may employ, elect, or appoint a chief executive officer, who is in charge of operations and whose title is [01 shall designate the] president, who may or may not be a member of the board of directors.

(c) Subject to any guidelines set by the board of directors, the president shall appoint, employ, or hire, and may discharge, other officers and employees that the president considers necessary for the operation of the credit union. The president shall prescribe the titles of those officers and employees. The board of directors shall elect the officers of the credit union at the time and in the manner prescribed by the bylaws:

(d) Each officer shall serve for one year or until his successor is elected and qualified:

(e) The duties of the officers are prescribed in the bylaws.

SECTION 23. Section 5.05, Texas Credit Union Act (Article 2461-5.05, Vernon’s Texas Civil Statutes), is amended to read as follows:
Sec. 5.05. CREDIT COMMITTEE, CREDIT MANAGER, LOAN OFFICERS. (a) The board of directors may delegate all or part of its power to approve or disapprove loans to [shall appoint] a credit committee, one or more other committees, or one or more individuals, in the manner prescribed by the bylaws. (b) The terms of the members of the credit committee are prescribed in the bylaws. (c) The credit committee shall supervise the making of loans to members. (d) The credit committee shall meet at least once a month or more frequently if the business of the credit union requires. (e) A credit union may not make a loan unless it has been considered by the credit committee and approved by a majority of the credit committee present at the meeting at which the loan is considered. (f) The credit committee may appoint one or more loan officers and delegate to each loan officer the power to approve loans. At least once a month, each loan officer shall furnish to the credit committee a record of each loan approved or not approved by the loan officer during the month preceding the date of the meeting of the credit committee. The loan officer may make loans without the necessity for any meetings other than those prescribed in this subsection and without the necessity of the prior approval by any members of the credit committee, if the bylaws permit. The credit committee shall consider and act on all applications for loans not approved by the loan officer within 30 days after the date the application or request for loan is forwarded to the credit committee. (g) With the approval of the board of directors, the president may appoint a credit manager to serve in lieu of the credit committee. The credit manager, if so appointed, shall supervise the making of loans to members and shall have the same powers, duties, rights, and prerogatives extended to the credit committee under the provisions of this section. A credit union may have only one credit manager, who may be the same person as the president.

SECTION 24. Section 5.06, Texas Credit Union Act (Article 2461-5.06, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.06. COMPENSATION AND BOND; CONFLICTS OF INTEREST. (a) No director, honorary director, advisory director, or committee member may receive compensation, directly or indirectly, for serving as a director, honorary director, advisory director, or committee member, except that those persons may be: (1) provided with reasonable health, life, accident, liability, and similar insurance protection; (2) reimbursed for necessary expenses incident to the performance of their duties; and (3) paid the fees and reimbursed for the other expenditures authorized by rules adopted by the commission. Directors may receive reimbursement for actual expenses incurred in carrying out their duties. (b) The board of directors shall purchase from a surety company authorized to do business in this state a blanket surety or security bond covering all directors, honorary directors, advisory directors, officers, employees, members of official committees, attorneys at law, and other agents of the credit union to protect the credit union against loss caused by the failure of a person to faithfully perform his duties. (c) While serving as a director, honorary director, advisory director, committee member, officer, or employee of a credit union, a person may not: (1) participate, directly or indirectly, or in any manner, in the deliberation on or determination of a question affecting the person's pecuniary interest or the pecuniary interest of a partnership, association, or corporation, other than the credit union.
union, in which the person is directly or indirectly interested, except than an interest only as a member of the credit union shared in common with all other members is not a pecuniary interest within the meaning of this subdivision; or

(2) become employed by, engage in, or own an interest in a business or professional activity that the person could reasonably expect to:

(A) require or induce the person to disclose confidential information acquired by reason of the person's office or employment in the credit union; or

(B) impair the person's independence or judgment in the performance of the person's duties or responsibilities to the credit union.

SECTION 25. Section 5.07, Texas Credit Union Act (Article 2461-5.07, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.07. FINANCIAL REPORTING; AUDITS. (a) A credit union shall use the financial reporting forms and observe the accounting principles prescribed by the commission. The board of directors shall make or cause to be made a comprehensive annual audit of the books and affairs of the credit union, in accordance with established principles and rules adopted by the commission, promptly submit a report of each annual audit to the department, and submit a summary of that report to the members of the credit union at the next annual meeting. The board shall submit the results of the audit to the department. The board of directors shall make or cause to be made any supplementary audits or examinations that it deems necessary or that the commissioner requires. The commission by rule may require verifications of the accounts of the members with the records of the credit union if required by regulations promulgated by the commissioner.

(c) If the commissioner, by examination or other credible evidence, finds that the board of directors is failing or refusing to comply with this section or a rule adopted under it, the commissioner may appoint an independent person or persons from outside the credit union and its membership to perform an audit, the costs and expenses of which are borne by the credit union.

SECTION 26. Section 5.08, Texas Credit Union Act (Article 2461-5.08, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.08. MISCONDUCT AND PENALTIES FOR MISCONDUCT. (a) A director, honorary director, advisory director, committee member, officer, or employee of a credit union who knowingly demands or receives, directly or indirectly, any bonus, commission, or other consideration on account of the making of a specific loan or investment or the purchase of any asset by a credit union commits a Class A misdemeanor.

(b) Any officer, director, honorary director, advisory director, committee member, [loan] officer, or employee of a credit union who knowingly permits a loan to be made to a nonmember or participates in a loan to a nonmember commits a Class B misdemeanor. Additionally, the offender is primarily liable to the credit union for the amount illegally loaned. The illegality of the loan is no defense in any action of the credit union to recover on the loan. Extension of credit to a nonmember as a co maker with a member, or extension of credit to a nonmember for the sale of real or personal property owned by the credit union or for the sale of assets acquired in liquidation or repossession shall not be construed as a loan to a nonmember.

(c) A person commits a felony of the third degree if the person, with the intent to deceive, knowingly:
(1) makes a false entry on the books or records or a report or statement of a credit union; or
(2) in connection with an examination or investigation of the credit union by the commissioner, deputy commissioner, or an authorized examiner of the department, exhibits a false or fictitious paper, instrument, or security or gives under oath a false answer to any question, directly related to the examination or investigation, propounded to him by the commissioner, deputy commissioner, or an authorized examiner of the department.

(d) A person who, for the purpose of concealing a fact or information from the commissioner, deputy commissioner, or an authorized examiner of the department, knowingly removes, destroys, or conceals any book or record of the credit union commits a felony of the third degree [Any officer, director, committee member, loan officer, or employee of a credit union, or any person who knowingly permits or participates in a loan in violation of this Act, the bylaws of the credit union, or rules and regulations of the commissioner, other than a loan in violation of Subsection (b) of this section, commits a felony of the third degree].

SECTION 27. Section 5.09, Texas Credit Union Act (Article 2461-5.09, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 5.09. OFFICERS, DIRECTORS, AND EMPLOYEES; CEASE AND DESIST; REMOVAL; APPEAL. (a) The commissioner may determine in the performance of his duties under this Act [find] that an officer, director, honorary director, advisory director, or employee of a credit union, or the credit union itself, acting by and through an officer, director, honorary director, advisory director, or employee [any authorized person], has:

(1) violated [the provisions of this Act, a rule adopted under this Act, or any other law, rule, or regulation applicable to credit unions];
(2) violated, neglected, or refused to comply with a duly issued final order of the commissioner or commission [the provisions of this Act or any other law or regulation applicable to credit unions];
(3) willfully neglected to perform official or legal duties, or willfully committed a breach of trust or fiduciary duty;
(4) committed any fraudulent or questionable practice in the conduct of the credit union’s business which endangers the credit union’s reputation or threatens its solvency;
(5) refused to submit to examination under oath, or to permit examination of the credit union’s books, papers, records, accounts, and affairs by the commissioner or a duly authorized representative of the commissioner;
(6) failed or refused to authorize and direct any other person to permit the inspection and examination of the credit union’s books, papers, records, or accounts in the other person’s care, possession, custody, or control by the commissioner or a duly authorized representative of the commissioner, after the commissioner has requested the granting of that authority and direction to the other person;
(7) [or] conducted the credit union’s business in an unsafe, [or unauthorized, or unlawful manner; [or]
(8) concealed, destroyed, removed, falsified, or perjured a book, record, paper, report, statement, or account related to the business and affairs of the credit union;
(9) transacted business while the credit union was in an unsafe or unsound condition;
(10) [or] violated any conditions of the credit union’s articles of incorporation [its charter] or of any written agreement entered with the commissioner or the commission; or
(11) committed a criminal act that constitutes a substantial detriment to the reputation and conduct of the business of the credit union [department].
(b) If, on examination or at any other time, the commissioner makes any of the findings set out in Subsection (a) of this section, he shall issue a demand letter giving notice in writing to the credit union and the offending person or persons (officer, director, or employee) stating the particular violations or practices found. The commissioner promptly shall call a meeting of the members of the board of directors of the credit union, who shall attend the meeting, and lay before them the findings contained in the demand letter and demand a discontinuance of the violations and practices found.

(c) If the commissioner makes any of the findings set out in Subsection (a) of this section and determines that an order to cease and desist is necessary and in the best interest of the credit union involved and its depositors, creditors, and members, then at the directors' meeting provided or within 30 days thereafter the commissioner may serve on the credit union, its board of directors, and any offending person or persons (officer, director, or employee) a written order to cease and desist from the violations and practices enumerated in the order and to take such affirmative action that the commissioner considers necessary to correct the conditions resulting from the violations or practices found. Service of the order on the credit union and any offending person must be either by certified or registered mail, addressed to the credit union at the last address of its principal office as shown by the records of the department, or by delivery to any officer or director of the credit union. Service by mail is complete on deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service. The cease and desist order is effective and binding immediately on service if the commissioner finds that the solvency of the credit union is endangered, that there is a continuing violation of this Act or the rules adopted under this Act, or that there is a threat of immediate and irreparable harm to the general public or the credit union, its depositors, creditors, or members; otherwise, the order shall state the effective date, not less than 10 days after service of the order. Unless the credit union through its board of [or] directors files a written notice of appeal, including a duly certified resolution of the board, with the commissioner within 10 days after the service of the order, the order is final. A copy of the order shall be entered in the minutes of the meeting of the members of the board of directors, who shall certify to the commissioner in writing that each has read and understood the order.

(d) If the commissioner subsequently finds by examination or other credible evidence that the offending person or persons have continued violations or practices previously charged and found by the commissioner after notice and demand made under Subsection (b) of this section, and further finds that removal from office or employment is necessary and in the best interest of the credit union and its depositors, creditors, and members, then the commissioner may issue an order removing the offending person or persons.

(e) Notwithstanding any other provision of this Act, if the commissioner, by examination or other credible evidence, makes any of the findings in Subsection (a) of this section and determines that the removal of the offending person or persons from office or employment is immediately necessary because the person or persons have committed or are about to commit a fraudulent or criminal act involving the conduct of the business of the credit union, an act that may cause the credit union to become insolvent or to be placed in imminent danger of insolvency, or an act that otherwise threatens immediate and irreparable harm to the general public or the credit union or its members, depositors, or creditors, the commissioner may issue an order of removal.

(f) An order of removal must state the grounds for removal with reasonable certainty. It shall be promptly served in the same manner as a cease and desist order.
on the person or persons removed and on the credit union. On issuance of the order, the offending person or persons have no rights, duties, or authority of office or employment in the credit union. Unless the person or persons removed or the credit union, through its board of directors as evidenced by a duly certified resolution, files a written notice of appeal with the commissioner not more than 10 days after the day the order of removal is served, the order is final as of the date it is issued, and the person or persons removed may not hold office in, be employed by, or participate in the affairs of the credit union. A copy of the order of removal shall be entered in the minutes of the board of directors, and an officer shall acknowledge receipt of the order and certify to the commissioner that the person or persons named in the order of removal have been removed from office, officer, director, employee, or officer of removal. The order shall state the grounds for removal with reasonable certainty and shall effect immediate suspension from office or employment. Unless the credit union, the director, or the person removed files a notice of appeal with the commissioner within 10 days after the delivery or mailing of notice, whichever is the case, the order of removal is effective and final as of the date of suspension, and the person removed may not hold office, be employed by, or participate in the affairs of the credit union. A copy of the order shall be entered in the minutes of the directors, and an officer shall acknowledge receipt of the order and certify to the commissioner that the person has been removed from office.

(1) If the credit union or a person removed duly files a notice of timely appeal of a cease and desist order or an order for removal, the commissioner shall set a time and place for hearing the appeal by the commission in accordance with rules adopted by the commission giving reasonable notice to the person removed. The commission may adopt any rules or procedures necessary to govern the fair hearing and adjudication of the questions appealed. The filing of an appeal does not suspend the effect of the order of removal, cease and desist order, and the order remains in force pending final disposition of the appeal. At the conclusion of the hearing on the appeal, the commission may either vacate, affirm, or modify the order of the commissioner and order that appropriate action be taken.

(2) If, after a] cease and desist order or an order of removal becomes [effective and] final on completion of an appeal or otherwise as provided by this section, if:] a credit union or a person designated in the order [its board of directors or any duly authorized officer of the credit union] fails or refuses to comply with a final [an] order, then the commissioner may, after giving notice, assess a civil penalty against the credit union, the designated person, or both, in an amount not to exceed $100 each for each day of the [credit union's] violation of the order. The credit union may not reimburse or indemnify a person for all or part of the civil penalty. The credit union may not reimburse or indemnify a person for all or part of the civil penalty. The [credit union] may institute a suit for injunction and for collection of the civil penalty in a district court of Travis County, in addition to any other remedy provided by law.

SECTION 28. Chapter 5, Texas Credit Union Act (Article 2461-5.01 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 5.10 to read as follows:
DEFAMATION. A person who knowingly makes, utters, circulates, or transmits to another person a statement that is false and derogatory to the financial condition of a credit union authorized to do business in this state, with intent to injure that credit union, or who counsels, aids, procures, or induces another person to make, utter, circulate, or transmit such a statement, with such an intent, commits a felony of the third degree.

SECTION 29. Section 6.01, Texas Credit Union Act (Article 2461-6.01, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 6.01. CAPITAL. (a) The capital of a credit union consists of the aggregate amount of the share and deposit accounts of its members plus all reserves and undivided earnings of the credit union.

(b) A share account consists of payments on shares of a member, including membership shares, which may be of different types or classes and may be with or without par value as determined by the board of directors.

(c) A deposit account consists of payments made under an agreement between the credit union and the depositor, including but not limited to a draft account, checking account, savings account, certificate of deposit, and any other similar account or arrangement.

SECTION 30. Section 6.05, Texas Credit Union Act (Article 2461-6.05, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 6.05. MULTIPLE-PARTY ACCOUNTS. (a) A member may designate any person or persons, including organizations, associations, corporations, or partnerships, [organization, association, corporation, or partnership] to own share or deposit [hold shares, deposits, and thrift club accounts] with the member jointly, with or without the right of survivorship, or in a multiple-party account as that term is defined by the Texas Probate Code [joint tenancy]. One or more or all of the parties to an account [joint tenants] may make payments on share accounts and deposit accounts and make [deposits and] withdrawals subject to the terms of the [a multiple-party] account agreements [agreement] accepted by the credit union. [A credit union shall maintain all multiple-party account agreements as a permanent part of the records pertaining to multiple-party accounts. At least one party to a multiple-party account must be a member of the credit union in which the account is established.] No party [joint tenant], unless also a member, may vote, obtain loans, or hold office in the credit union. Payment of part or all of an [a multiple-party] account to any one or more of the parties [joint tenants] discharges, to the extent of the payment, the liability of the credit union to all.

(b) The net contribution of a party to an [a multiple-party] account, as of any given time, is the sum of all payments on [deposits or] shares or deposits made by or for the party, less all withdrawals made by or for the party which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance. The net contribution includes, in addition, any [share or deposit or] life insurance proceeds added to the account by reason of the death of the party whose net contribution is in question. [During the lifetime of all parties to a multiple-party account, unless the multiple-party account agreement with the credit union provides otherwise, sums on deposit or in share accounts may be paid on the demand of one or more parties once they have been included in the current balance.] Unless the [multiple-party] account agreement [with the credit union] provides otherwise, and in the absence of satisfactory proof of the net contributions, those who are parties from time to time shall be presumed to own the joint account in equal undivided interests.

(c) The death of any party to an [a multiple-party] account has no effect on the beneficial ownership of the account, other than to transfer the decedent’s right...
in the account to the estate of the decedent, unless the account or trust agreement provides otherwise. An account that does not expressly provide for right of survivorship is presumed to be a nonsurvivorship account. If the credit union complies with the terms of the account agreement, the credit union may pay out any funds representing shares or deposits on the order of any party, either before or after the death of any other party, after which the credit union does not have further liability for the amounts so paid [is a survivorship account or trust account established in accordance with the laws and with the constitution of this state and the bylaws of the credit union. Nothing in this Act otherwise prevents a credit union from operating the account in accordance with the terms of the multiple-party account agreement].

(d) [A multiple-party account payable to two or more persons, jointly or severally, that does not expressly provide that there is a right of survivorship, is presumed to be a nonsurvivorship account;]

(e) [Without qualifying any other statutory right to a setoff or lien, and subject to any contractual provisions accepted by the credit union, when a party to an [a multiple-party] account is indebted to a credit union, the credit union has a right to set off against the entire amount of the account.

(f) [Nothing in this Act shall be construed as in conflict with the laws of the United States or of the State of Texas as those laws govern the taxation of multiple-party accounts.]

SECTION 31. Section 6.06, Texas Credit Union Act (Article 2461-6.06, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6.06. MINOR ACCOUNTS. A credit union may issue share and deposit accounts [shares or deposits] in the name of a minor, receive payments on these accounts by or for the minor, pay withdrawals, accept pledges to the credit union by or for the minor, and act in any other matter with respect to the accounts on the order of the minor [and a minor may withdraw the shares or deposits. Payments made on withdrawals by a minor are valid]. A minor may vote in the meetings of the members if permitted by the bylaws, except no minor may vote through his parent or guardian. No minor is eligible for any office or committee membership within the credit union unless the bylaws specify otherwise. A payment or delivery of rights by a credit union to a minor, any party to the account, or to the parent or guardian of a deceased minor, is a valid and sufficient release and discharge of the credit union to the extent of the payment or delivery. The payment and any receipt, pledge, or other action required by the credit union is binding on the minor as if the minor were of legal age and capacity.

SECTION 32. Section 6.07, Texas Credit Union Act (Article 2461-6.07, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6.07. TRUST ACCOUNTS. A credit union may issue shares or hold deposits in the name of a member in trust for a beneficiary, including a minor, but no beneficiary, unless the beneficiary is also a member, may vote, obtain loans, hold office, or be required to pay an entrance fee. Payment of part or all of the shares or deposits to a member shall, to the extent of the payment, discharge the liability of the credit union to the member and the beneficiary, and the credit union shall be under no further obligation [to see the application of the payment]. If a member to or for whom shares or deposits are issued or held in trust dies, and the credit union has no other written evidence of the existence or terms of any trust, the credit union shall not discharge the liability of the credit union to the extent of the payment. If the credit union has written evidence of the terms of the trust, the credit union shall administer and distribute the shares or deposits so issued or held under the
provisions of the trust agreement, a copy of which must remain on file with the credit union until termination of the trust. If the credit union does not have written evidence of the termination or other disposition of the trust, the credit union may distribute the shares or deposits so issued or held under the provisions of the trust agreement. Such a distribution discharges the liability of the credit union to the extent of the distribution.

SECTION 33. Section 6.08, Texas Credit Union Act (Article 2461-6.08, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 6.08. THIRD PARTY CLAIMS. No credit union authorized to do business under this Act, nor any federal credit union domiciled in this state is required to recognize the claim of any third party to any share or deposit account, or to withhold payment of any share or deposit account to any party to the account, unless and until the credit union is served with citation or other appropriate process issuing out of a court of competent jurisdiction in connection with a suit instituted by the third party for the purpose of recovering or establishing an interest in the deposit or share account.

SECTION 34. Chapter 6, Texas Credit Union Act (Article 2461-6.01 et seq., Vernon’s Texas Civil Statutes), is amended by adding Section 6.09 to read as follows:

Sec. 6.09. LIENS AND SETOFF; WITHDRAWALS. (a) In addition to any other right to a setoff or lien provided by law, a credit union authorized to do business under this Act has:

(1) a lien, which it may enforce with or without judicial process, on the shares and deposits and accumulation of dividends and interest of a member to the extent of any direct or indirect indebtedness of the member to the credit union; and

(2) the right to set off member indebtedness against the member’s shares, deposits, and accumulation of dividends and interest to the extent of any direct or indirect indebtedness of the member to the credit union.

(b) A credit union may allow withdrawals without affecting any right it has to a setoff or lien. A credit union may require up to 60 days’ notice for withdrawals from share or deposit accounts. Such a notice may be imposed by the commissioner if he issues a cease and desist order under Chapter 5 of this Act. The commission by rule may require that any advance notice requirement for withdrawals apply to all members of the credit union. A membership share may not be withdrawn except on termination of membership in the credit union.

SECTION 35. Section 7.01, Texas Credit Union Act (Article 2461-7.01, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 7.01. PURPOSE, TERMS, AND INTEREST RATE. If made in accordance with rules adopted by the commission, a credit union may make loans to members for such purposes as it may approve and on such security and terms as it may require, at rates of interest not exceeding one and one-half percent per month on the unpaid balance, or higher rates otherwise authorized by law, including the rates authorized by Article 1.04, Title 79, Revised Civil Statutes of Texas, 1925, as amended, and all Statutes of Texas, 1925, as amended, Article 5069-2.01 et seq. Vernon’s Texas Civil Statutes, do not apply to a credit union loan or extension of credit unless the agreement evidencing that transaction specifically provides otherwise. Every loan must be evidenced by a written instrument.

SECTION 36. Section 7.02, Texas Credit Union Act (Article 2461-7.02, Vernon’s Texas Civil Statutes), is amended to read as follows:
Sec. 7.02. LOAN LIMIT. No credit union may make a loan or aggregate of loans to any one member, including loans to the member’s business interests, in an amount greater than 10 percent of the unimpaired capital and surplus of the credit union’s total assets.

SECTION 37. Section 7.03, Texas Credit Union Act (Article 2461-7.03, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 7.03. OPEN-END [LINE-OF] CREDIT. A credit union may enter into a written agreement with a member, allowing that member to borrow money from time to time, under which interest may from time to time be computed on an outstanding unpaid balance. The credit union (the credit committee, an authorized loan officer, or the credit manager) may also approve in advance a line of credit and may grant advances to a member within the limit of the extension of credit. Additional [if a line of credit has been approved, no additional] loan applications are not required under an open-end credit plan or line of credit if the aggregate obligation does not exceed a [the] limit of the extension of credit established by the credit union.

SECTION 38. Section 7.04, Texas Credit Union Act (Article 2461-7.04, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 7.04. PARTICIPATION LOANS AND OTHER LOAN PROGRAMS. (a) A credit union may market and sell participations [participate] in loans to members originated by the credit union to [jointly with] other credit unions, corporations, or financial organizations. (b) A credit union may participate in guaranteed loan programs of the federal and state governments and other government loan programs approved by the commission.

SECTION 39. Section 7.05, Texas Credit Union Act (Article 2461-7.05, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 7.05. LOANS TO OFFICIALS. (a) A credit union may make loans and extend lines of credit to its directors, employees, loan officers, credit manager, and members of its credit committee, and members of the immediate families of those persons, if:

(1) the loan complies with the requirements of this Act and rules adopted under this Act with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers; and

(2) before making or agreeing to make the loan, the board of directors has approved [approves] the loan, if the loan or aggregate of outstanding loans to any one person, his business interests, and members of his immediate family is greater than $10,000 or a higher amount established by a commission rule ($2,500), plus pledged shares and deposits.

(b) A credit union may permit a director, employee, loan officer, credit manager, and member of its credit committee to act as co-maker, guarantor, or endorser of a loan to another member, unless the loan standing alone or added to any outstanding loan or loans to the co-maker, guarantor, or endorser exceeds $10,000 or a higher amount established by a commission rule ($2,500), plus pledged shares and deposits, in which case prior approval of the board of directors is required.

SECTION 40. Section 7.06, Texas Credit Union Act (Article 2461-7.06, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 7.06. PREPAYMENT PRIVILEGE. Any loan may be prepaid in whole or in part, without penalty, during regular working hours on any day on which the credit union is open for business, except that the credit union may require a partial prepayment on a loan secured by a lien, mortgage, or other type of security interest in real property to be made on the date monthly installments are due and
in the amount of that part of one or more monthly installments that would be applicable to principal.

SECTION 41. Chapter 7, Texas Credit Union Act (Article 2461-7.01 et seq., Vernon’s Texas Civil Statutes), is amended by adding Sections 7.07 and 7.08 to read as follows:

Sec. 7.07. COLLECTION OF ILLEGAL LOANS. Illegality of a loan is not a defense in an action by the credit union to recover on the loan and does not prevent enforcement or collection of the loan against or from the borrower, a person in the position of a guarantor or surety, or a person who is otherwise liable in regard to the loan.

Sec. 7.08. EXPENSES, FEES, AND PENALTIES. (a) A credit union may require a member to pay all reasonable expenses and fees incurred in connection with making, closing, disbursing, extending, readjusting, or renewing a loan, whether or not those expenses or fees are paid to third parties. Those payments may be collected by the credit union from the member and retained by the credit union or paid to a person rendering services in connection with the payment, or the payments may be paid directly by the member to third parties to whom they are payable. The fees or expenses are in addition to interest authorized by law and are not a part of interest collected or agreed to be paid on a loan.

(b) A credit union may charge a member a penalty when a payment on a loan is 10 days or more in arrears. The penalty may not exceed five percent of the payment due. Only one penalty may be charged by the credit union on each past due payment. The penalty, when charged in the amount authorized, is not interest under any law that defines interest or limits the rate of interest that may be charged and may be charged and collected in addition to the interest authorized by law.

SECTION 42. Section 8.01, Texas Credit Union Act (Article 2461-8.01, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 8.01. INVESTMENT OF FUNDS. A credit union may invest funds not used in loans to members:

(1) in capital shares, obligations, participation certificates, or common or preferred stock [issues] of any agency, association, [or] company, network, [organized as a stock company, mutual association, mutual company, membership association, membership company [corporation], partnership, joint venture, or trust company, if the membership or ownership of the agency, association, or company is confined or restricted to credit unions and their members or organizations of credit unions, and if the agency, association, or company is designed primarily to serve or otherwise assist credit union operations; in loans to any credit union association or corporation, national or state, of which the credit union is a member; [and] investments in any one agency, association, [or] company or other entity of the type described in this subdivision [subsection] may not exceed [an aggregate amount of five percent of the credit union’s total assets or the amount of its reserve fund, whichever is less; however, the commission may adopt rules authorizing investments in the securities of any agency, association, company, or other entity of a type described in this subdivision whose membership or ownership is not confined to credit unions and their members or organizations of credit unions, whether or not the entity is designed primarily to serve or otherwise assist credit union operations;]

(2) in obligations, bonds, notes, or other evidences of indebtedness of [the State of Texas or] any state, city, town, village, county, school district, municipal corporation, taxing authority, or [of its] political subdivision [subdivisions];

(3) in certificates of deposit or other [passbook] accounts issued by a state or national bank, [or issued by a building and loan association or a savings and loan association, savings association, or mutual savings bank] [subject to regulations promulgated by the commissioner];
(4) in securities, obligations, participations, or other instruments of or issued by the federal government or any of its agencies, or in any trust or trusts established for investing directly or collectively in the same;

(5) in loans to, shares of, or deposits in other credit unions, corporate credit unions, central liquidity facilities established under state or federal law, in an amount not to exceed 25 percent of the total dollar amount of the capital of the lending credit union, or to any trust or trusts, or organizations established for lending directly or collectively to credit unions;

(6) in securities, obligations, participations, or other instruments fully or partially guaranteed as to principal, interest, or both by the federal government or any of its agencies, or in any trust or trusts established for investing directly or collectively in those investments; in purchases from any liquidating credit union, in accordance with rules and regulations promulgated by the commissioner, of notes made by individual members of the liquidating credit union at such prices as may be agreed to by the commissioner, or by the liquidating agent or board of directors of the liquidating credit union and the board of directors of the purchasing credit union;

(7) in participation loans with other credit unions, corporations, credit organizations, or financial organizations;

(8) in the notes receivable, loans to members, or other assets of any credit union operating under this Act or the Federal Credit Union Act; and

(9) in other investments that may be authorized by rules adopted by the commissioner, which rules must be responsive to changes in economic conditions or competitive practices, and the need for safety and soundness of credit union investments.

SECTION 43. Section 9.01, Texas Credit Union Act (Article 2461-9.01, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9.01. RESERVE ALLOCATIONS. (a) The commissioner shall adopt rules and regulations prescribing reserve allocations and requiring credit unions to maintain [any] reserves necessary to protect the interests of their members. Those rules may prescribe the purposes for which the reserves may be used and may authorize the commissioner to approve other uses.

(b) The board of directors may establish reserves in addition to the required reserves [The reserve fund belongs to the credit union. The credit union shall use its reserve fund to meet all losses except those resulting from an excess of expenses over income. The credit union may not distribute its reserve fund except on liquidation of the credit union or in accordance with a plan approved by the department. The board of directors may increase or if the fund equals or exceeds the percentage established by regulations promulgated under this Act, may decrease the proportion of the gross income to be placed in the reserve fund; and may transfer part or all of the undivided earnings to the reserve fund].

SECTION 44. Section 9.02, Texas Credit Union Act (Article 2461-9.02, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9.02. DIVIDENDS AND INTEREST. Dividends and interest may be paid at rates and on conditions that the board of directors authorizes. The commissioner may impose restrictions on the payment of dividends if he issues a cease and desist order under Chapter 5 of this Act. [The board of directors of a credit union may declare a dividend from undivided earnings in accordance with rules and regulations promulgated by the commissioner.]

SECTION 45. Section 9.03, Texas Credit Union Act (Article 2461-9.03, Vernon's Texas Civil Statutes), is amended to read as follows:
Sec. 9.03. SHARE REDUCTION. If [When] the losses of any credit union, resulting from a depreciation in value of its loans or investments or otherwise, exceed its undivided earnings and any reserves [reserve fund] and the estimated value of its assets is less than the total amount due the shareholders, the credit union may, by a majority vote of the members of the credit union present at a meeting of members called for that purpose [entire membership], order a reduction in the membership shares of each of its shareholders to divide the loss proportionally among them [the members]. If the credit union later realizes from its assets a greater amount than was fixed by the order of reduction, the credit union shall divide the excess among the shareholders whose shares were reduced, but only to the extent of the reduction.

SECTION 46. Section 10.01, Texas Credit Union Act (Article 2461-10.01, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10.01. SUSPENSION AND CONSERVATION. (a) The commissioner may determine in the performance of his duties under this Act that the credit union is insolvent or in imminent danger of insolvency, or that an officer, director, honorary director, advisory director, or employee of a credit union, or the credit union itself, acting by and through an officer, director, honorary director, advisory director, or employee, has:

(1) violated this Act, a rule adopted under this Act, or any other law, rule, or regulation applicable to credit unions;

(2) violated, neglected, or refused to comply with a duly issued final order of the commissioner or commission;

(3) refused to submit to examination under oath, or to permit examination of the credit union's books, papers, records, accounts, and affairs by the commissioner or a duly authorized representative of the commissioner;

(4) failed or refused to authorize and direct any other person to permit the inspection and examination of the credit union's books, papers, records, or accounts in the other person's care, possession, custody, or control by the commissioner or a duly authorized representative of the commissioner, after the commissioner has requested the granting of that authority and direction to the other person; or

(5) conducted the credit union's business in an unsafe, unauthorized, or unlawful manner.

(b) If the commissioner makes any of these findings, he may issue an order temporarily suspending the credit union's operations for not more than 90 days. Service of the order of suspension must be by certified or registered mail, addressed to the credit union at the last address of its principal office, as shown by the records of the department, or by delivery to an officer or director of the credit union. Service by mail is complete on deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service. The order must state the grounds for suspension with reasonable certainty.

(c) After the suspension order has been served on the credit union, the commissioner shall take possession and control of the books, records, property, assets, and business of the credit union, and the credit union shall cease all operations, except those authorized by the commissioner and conducted under his supervision. Not later than 15 days after the date the order of suspension is served, the board of directors shall file a written reply to the order, and may file a written request for a hearing to present to the commissioner a plan to continue operations setting out proposed corrective actions. The board of directors may request that a conservator be appointed for the credit union or that the credit union be closed and a liquidating agent be appointed, in which event the commissioner may immediately appoint a conservator, or order that the credit union be liquidated and appoint a liquidating agent.
(d) If the board of directors files its reply and requests a hearing as provided by this section, the commissioner shall set and hold the hearing not less than 10 or more than 30 days after the date of receipt of such a request. The commissioner shall promptly give notice to the credit union of the date, time, and place of the hearing. Not later than 10 days after the earlier of the date of conclusion of the hearing or the date on which the suspension expires, the commissioner shall adopt the plan to continue operations presented by the credit union, agree with the credit union on an alternative plan to continue operations or other appropriate measures, reject the plan to continue operations and issue an order of conservation appointing a conservator, or issue an order of liquidation ordering that the credit union be closed, ordering that its affairs and business be liquidated, and appointing a liquidating agent, if the commissioner finds that the capital of a credit union is seriously impaired, or that it is conducting its affairs in an unsafe, unauthorized, or unlawful manner, or that it refuses to submit to examination, the commissioner may take possession of the property and business of the credit union and retain possession until the commissioner permits it to resume business or orders its liquidation. Simultaneously, the commissioner shall cause notice of suspension to be given to the board of directors and shall call for a hearing within 10 days, at which hearing the board of directors may show cause why the suspension should not be continued or the credit union should not be liquidated. The board of directors may waive this hearing.

(e) If the commissioner, after issuing notice of suspension and providing opportunity for a hearing, rejects the credit union's plan to continue operations and determines that it is in the public interest and in the best interest of the members, depositors, and creditors of the credit union to rehabilitate the credit union, he may permit the credit union to operate under his direction and control, and shall issue an order of conservation appointing a conservator to manage the affairs of the credit union. The commissioner shall serve the order of conservation in the same manner as provided for service of an order of suspension—the commissioner may issue a notice of involuntary liquidation and appoint a liquidating agent who shall proceed as provided in Section 10.02 of this Act.

(f) The conservator, on behalf and under the supervision and direction of the commissioner, shall take charge of the books, records, property, assets, and business of the credit union and shall conduct the business and affairs of the credit union under the direction and supervision of the commissioner. The conservator shall take the steps toward the removal of the causes and conditions that have necessitated the order that the commissioner directs. During the conservatorship, the conservator shall make the reports to the commissioner from time to time that the commissioner requires. The conservator may take all necessary measures to preserve, protect, and recover the assets or property of the credit union, including claims or causes of action belonging to or that may be asserted by the credit union, may deal with that property in his own name as conservator, and may file, prosecute, or defend against a suit by or against the credit union if the conservator considers this action necessary to protect the interested parties or property affected by the suit.

(g) The commissioner shall determine the cost incident to the conservator's service. This cost is a charge against the assets and funds of the credit union to be allowed and paid as the commissioner directs.

(h) A suit filed against a credit union or its conservator while a conservatorship order is in effect must be brought in a court of competent jurisdiction in Travis County. The conservator may file suit in a court of competent jurisdiction in Travis County against any person for the purpose of preserving, protecting, or recovering assets or property of the credit union, including a claim or cause of action belonging to or that may be asserted by the credit union.
(i) The conservator shall serve for the period necessary to accomplish the purposes of the conservatorship as intended by this Act. If the credit union is rehabilitated, it shall be returned to the management of the board of directors under the terms that are reasonable and necessary to prevent recurrence of the conditions that occasioned the conservatorship.

(ii) If the commissioner determines that the credit union in conservatorship is not in a condition to continue business and cannot be rehabilitated as provided by this section, he may issue an order of liquidation appointing a liquidating agent.

(k) If, after a hearing under this section, the board of directors of the credit union is dissatisfied with the decision of the commissioner to issue an order of conservation, the board may appeal to the commission by filing with the commission a written appeal, including a duly certified resolution of the board, not later than 10 days after the order of conservation is served. If an appeal is duly filed, the commissioner shall set a date for a hearing on the appeal not more than 30 days after the date on which the appeal is filed. The commissioner shall promptly give notice of the date, time, and place of the hearing to the credit union and any other interested party. The filing of an appeal does not suspend the effect of the order of conservation and this order remains in force pending final disposition of the appeal by the commission. At the conclusion of the hearing, the commission may reverse the decision of the commissioner and adopt and approve the credit union's plan to continue operations, affirm the commissioner's order of conservation, or order that other appropriate action be taken.

(l) If the board of directors of the credit union does not file a reply to the order of suspension as required by this section or fails to request and appear at the hearing provided for by this section, the commissioner may dispose of the matter as he considers appropriate. The credit union is presumed to have consented to this action and may not contest it.

SECTION 47. Section 10.02, Texas Credit Union Act (Article 2461-10.02, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10.02. LIQUIDATION. (a) The commissioner may issue an order of liquidation appointing a liquidating agent, and directing that the credit union be liquidated, after he has issued an order of suspension and provided an opportunity for hearing as provided in Section 10.01 of this Act:

(1) if the board of directors of the credit union requests that an order of liquidation be issued and that the credit union be liquidated;
(2) if the credit union otherwise consents to the action;
(3) if [When] the commissioner finds that [the interests of depositors and creditors of a credit union are seriously jeopardized through insolvency or imminent insolvency and that] it is in the public interest and (to) the best interest of the members, depositors, and creditors of (that) the credit union that it be closed and its assets liquidated, the commissioner may close and liquidate the credit union.

(b) Unless the commissioner has issued an order of liquidation, the board of directors of the credit union may adopt a resolution recommending that the credit union be dissolved voluntarily and directing that the question of liquidation be submitted to the members. Not later than five days after the day of the adoption of the resolution, the chairman shall notify the commissioner in writing setting forth the reasons for the proposed liquidation. A [Unless involuntary liquidation has already been initiated by the commissioner, a] majority of the credit union members voting [present] at a meeting specially called to consider the matter, but not less than a quorum, may vote to dissolve and liquidate the credit union. Notwithstanding any other law or the articles of incorporation or bylaws of the credit union, notice of the
special meeting to consider the matter of liquidation shall be mailed, by first-class
mail, to each member of the credit union and to the commissioner not later than
10 days before the day of the meeting [if a notice of the special meeting was mailed
to the members of the credit union at least 10 days prior to the meeting].
Immediately after the mailing of a notice of a special meeting called to consider the
matter of liquidation, the credit union shall cease to operate except for the purposes
of accepting payments on loans or other obligations due the credit union. If the vote
to dissolve and liquidate the credit union passes, the credit union may do no further
business except that incidental to liquidation. The chairman of the board or the
president and the secretary shall, within five days following the meeting and the
affirmative vote to dissolve and liquidate, notify the commissioner [department] of
intention to liquidate and shall include a list of the names of the directors and
officers of the credit union together with their addresses. The board of directors shall
appoint a liquidating agent for the purpose of conserving and collecting the assets
of the credit union, winding up its affairs, discharging its debts, distributing its assets,
and all other actions necessary and incidental to the liquidation of the credit union.
Notwithstanding the provisions of this subsection, the commissioner may appoint
a liquidating agent to act for the board of directors of the credit union in liquidation
if it is found that it is to the best interest of the depositors and creditors to do so.

(c) The commissioner shall serve an order of liquidation in the same manner
as provided for service of an order of suspension. At any time within five days after
the commissioner served an order of liquidation [has closed any credit union under
the provisions of Subsection (a) of this section or has appointed a liquidating agent
to act for the board of directors under the provisions of Subsection (b) of this
section], the credit union acting through its directors, as evidenced by a duly
certified resolution of the board, may sue in the district court of the county in which
the principal office of the credit union is located to enjoin the commissioner from
liquidating the credit union if the credit union has not requested or consented to
the order of liquidation. The court may, without notice or hearing, restrain the
commissioner from liquidating the assets of such credit union pending hearing of
the suit on the merits, and shall, in that event, instruct the commissioner to hold
the assets of the credit union in the commissioner’s possession and control pending
final disposition of the suit. The commissioner may, with approval of the court, take
such actions as may be necessary or proper to prevent loss or depreciation in the
value of the assets. The court shall, as soon as possible, hear the suit on the merits
and shall enter a judgment either enjoining the commissioner from liquidating the
assets of the credit union or refusing to issue an injunction. Appeal shall lie from
the judgment as in other civil cases, but the commissioner, irrespective of the
character of judgment entered by the trial court or of any supersedeas bond filed,
shall retain possession and control of the assets of such credit union pending final
disposition on appeal.

(d) The credit union in liquidation shall continue in existence for the purpose
of discharging its debts, collecting and distributing its assets, and doing all acts
required in order to wind up its business, and may sue and be sued for the purpose
of enforcing such debts and obligations until its affairs are fully adjusted. The [board
of directors or the] liquidating agent shall use the assets of the credit union to pay,
in the following order:

(1) expenses incidental to liquidation including any surety bond that may be
required;
(2) any liability due nonmembers;
(3) depositors; and
(4) [thrift club accounts as provided in this Act; and
[5] distributions to members proportionate to the shares held by each
member [as of the date liquidation was voted].
Subject to subject to the control and supervision of the commissioner and under the rules adopted by the commissioner and under the supervision of the commissioner, the liquidating agent shall:

1. receive and take possession of the books, records, assets, and property of the credit union in liquidation; sell, enforce collection of, and liquidate all assets and property; compound all bad or doubtful debts; sue in the name of the liquidating agent or in the name of the credit union in liquidation; and defend actions brought against the liquidating agent or against the credit union;

2. receive, examine, and pass on all claims against the credit union in liquidation, including claims of members on share;

3. make distribution and payment to creditors and members as their interests may appear;

4. execute such documents and papers and do such other acts and things that the liquidating agent may deem necessary or desirable to discharge his duties;

5. [f]

Subject to the control and supervision of the commissioner and under the rules and regulations promulgated by the commissioner, the board of directors of a credit union in liquidation shall:

[f] cause notice to be given to creditors and members to present and make legal proof of their claims, which notice must be published once a week in each of three successive weeks in a newspaper of general circulation in each county where the credit union in liquidation maintained an office or branch for the transaction of business on the date it ceased unrestricted operations; except that when the aggregate book value of the assets and property of the credit union in liquidation is less than $10,000, the commissioner shall declare the credit union in liquidation to be a “no publication” liquidation, and publication notice to creditors and members is not required in such case;

6. [f] from time to time make a ratable liquidation dividend on all claims that have been proved to the satisfaction of the board of directors or the liquidating agent or adjusted in a court of competent jurisdiction and, after the assets of the credit union have been liquidated, make further liquidation dividends on all claims previously proved or adjusted (the statement of any amount due to the creditor as shown on the books and records of the credit union may be accepted in lieu of a formal proof of claim on behalf of any creditor or member); but all claims not filed before payment of the final dividend are barred; claims rejected or disallowed by the board of directors or by the liquidating agent are also barred unless suit is instituted within three months after notice of rejection or disallowance; and

7. [f] in a “no publication” liquidation, determine from all sources available, and within the limits of available funds of the credit union, the amounts due to creditors and members, and after 60 days have elapsed from the date of notification to the department of a voluntary liquidation or from the date of appointment of the liquidating agent distribute the funds of the credit union to creditors and members ratably and as their interests may appear.

The commissioner shall prescribe the certificate to be completed by the liquidating agent [or by the board of directors] attesting to liquidation, that distribution has been made and that liquidation has been completed. The commissioner, on receipt and approval of the certificate, shall cancel the certificate of incorporation of the credit union. The corporate existence of the credit union shall continue for a period of three years from the date of cancellation of its certificate of incorporation, during which period the liquidating agent, or any duly appointed successor, or such persons as the commissioner may designate, may act on behalf of the credit union for the purpose of paying, satisfying, and discharging any existing liabilities or obligations, collecting and distributing its
assets, and doing all other acts required to adjust and wind up its business and affairs, and it may sue and be sued in its corporate name.

(g) If the commissioner finds that the liquidating agent has failed to properly perform his duties in a timely and efficient manner or has violated this Act or any rule adopted under this Act, the commissioner may take possession and control of the books, records, property, assets, and business of the credit union in liquidation by issuing an order of removal. The order shall remove the liquidating agent and appoint a successor liquidating agent to complete the process of liquidation and the winding up of the affairs of the credit union subject to the supervision and control of the commissioner. The order of removal shall be served on the liquidating agent being removed and is effective immediately on service. The commissioner shall also fill any vacancy caused by the resignation, death, illness, removal, desertion, or incapacity to function of the liquidating agent.

(h) Unless the commissioner grants prior approval in writing, no liquidating agent, officer, director, or employee of a credit union in liquidation may acquire any of the assets of the credit union in liquidation or purchase any loans of the credit union. No liquidating agent may obtain from the liquidation any compensation or profit for personal benefit, whether directly, indirectly, for the benefit of any member of the liquidating agent's family or any person related to or associated with the liquidating agent, or for the benefit of any business enterprise with which the liquidating agent is associated, except for the credit union in liquidation. The liquidating agent may receive reasonable compensation as may be set forth in the contract of employment; and nothing in this Act shall prevent compensation of the liquidating agent or those salaried employees and salaried officers of the credit union during the pendency of the liquidation, which payments shall be considered expenses incidental to liquidation. [Any person who participates in a violation of this subsection commits a misdemeanor punishable by a fine of not more than $1,000 and not less than $100, or by confinement in jail for not more than six months; or both.]

SECTION 48. Section 10.03, Texas Credit Union Act (Article 2461-10.03, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 10.03. MERGER OR CONSOLIDATION. (a) A credit union may, in accordance with rules adopted by the commission and with the approval of the commissioner, merge or consolidate with any other credit union, under the existing articles of incorporation of the other credit union or otherwise, pursuant to a plan agreed to by the majority of the board of directors of each credit union joining in the merger or consolidation and approved by a majority of the members of each credit union voting at the meetings of members called for that purpose. The commissioner may waive the requirement that the plan be approved by a majority of the members of either the credit union.

(b) After agreement by the directors and approval by the members, if applicable, of each credit union, the president and secretary of each credit union shall execute a certificate of merger or consolidation containing the following information:

(1) the time and place of the meeting of the board of directors at which the plan of merger or consolidation was agreed to;
(2) the vote of the board of directors in favor of and against the adoption of the plan;
(3) a copy of the resolution or other action by which the plan of merger or consolidation was agreed to;
(4) the time and place of the meeting of the members at which the plan was approved, if applicable;
(5) the vote of the membership in favor of and against approval of the plan, if applicable; and
(6) the name of the surviving credit union.
(c) The merging credit union or a consolidating credit union shall submit the certificates and a copy of the plan of merger or consolidation to the commissioner [department]. On approving the merger or consolidation, the commissioner [department] shall return the certificates and plan to the merging or consolidating credit unions. However, the commissioner may make his approval of a merger or consolidation conditional, and, in this event, shall set out the condition in his order approving the merger or consolidation. The commissioner may not deliver the approved certificate until the condition has been met. If the commissioner disapproves the merger or consolidation, or imposes a condition, the merging or consolidating credit unions may appeal the commissioner’s decision to the commission in the same manner as provided for an appeal on an application to incorporate a credit union.

(d) After a merger or consolidation is effected, all property, property rights, and interests of the merged or consolidated credit union vest in the surviving credit union without deed, endorsement, or other instrument of transfer, and all debts, obligations, and liabilities of the merged or consolidated credit union are assumed by the surviving credit union under whose charter the merger or consolidation is effected.
(e) This section shall be construed, whenever possible, to permit a credit union authorized to do business in this state [organized] under any other act to merge or consolidate with one authorized to do business [organized] under this Act.
(f) Notwithstanding any other law, the commissioner may authorize a merger or consolidation of a credit union that is insolvent or is in danger of insolvency with another credit union or may authorize a credit union to purchase any of the assets of, or assume any of the liabilities of, another credit union that is insolvent or in danger of insolvency if the commissioner is satisfied that:
(1) an emergency requiring expeditious action exists with respect to the credit union that is insolvent or in danger of insolvency;
(2) other options are not reasonably available; and
(3) the public interest would best be served by approval of the merger, consolidation, purchase, or assumption.

SECTION 49. Section 10.04, Texas Credit Union Act (Article 2461-10.04, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 10.04. CONVERSION. (a) A credit union organized under the laws of this state may convert to a credit union under the laws of the United States on an affirmative vote by a majority of the members voting at a meeting called for that purpose, and by complying with rules adopted by the commission to facilitate the conversion, if any.
(b) A credit union organized under the laws of this state may convert to a credit union under the laws of another state on an affirmative vote by a majority of the members voting at a meeting called for that purpose, and by complying with rules adopted by the commission, if any.
(c) A credit union organized under the laws of the United States or of another state may convert to a credit union organized under the laws of this state by complying with the requirements of the jurisdiction under which it is organized and the rules adopted by the commission (The commissioner shall promulgate regulations to permit the conversion of a credit union organized under this Act to a federal credit union; and the conversion of a federal credit union to a credit union organized under this Act).

SECTION 50. Subsections (b) and (c), Section 11.01, Texas Credit Union Act (Article 2461-11.01, Vernon’s Texas Civil Statutes), are amended to read as follows:
(b) The Credit Union Department is composed of the Credit Union Commission and a Credit Union Commissioner, together with other officers and employees within the department. The department shall supervise and shall regulate, as provided in this Act, all credit unions organized under the laws of the State of Texas. The department shall periodically make comprehensive studies of the statutes of this state as they pertain to credit union operations. The commissioner shall report the recommendations of the department when and as necessary to the legislature for consideration. During January of each year, the department shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding year. The state auditor shall audit the financial transactions of the department during each fiscal year. [The department shall report annually to the governor the receipts and disbursements of the department for each fiscal year, and shall report to the appropriate committees of the house of representatives and of the senate within the first 60 days of each regular session of the legislature].

(c) The Credit Union Commission is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon’s Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1995.

SECTION 51. Section 11.02, Texas Credit Union Act (Article 2461-11.02, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 11.02. ELIGIBILITY OF MEMBERS. (a) Six members of the commission must be individuals who are currently engaged in the exercise of the duties, responsibilities, rights, and powers of a duly authorized director, officer, or committee member of a credit union that is organized and doing business in this state under this Act or the Federal Credit Union Act and that has its principal office in this state, and who have five years or more of active experience as such a director, officer, or committee member. Experience as a commissioner, deputy commissioner, or examiner is equivalent to the type of experience required by this subsection. If a person holding a position in accordance with this subsection ceases to be engaged in the exercise of the duties, responsibilities, rights, and powers prescribed by this subsection for a period exceeding 90 days, the person is ineligible to serve as a member and the person’s position on the commission is vacant.

(b) Three members of the commission are representatives of the general public. An individual appointed to serve in that capacity may not, at the time of the individual’s appointment to or while serving on the commission:

1. be engaged in the management or direction of a financial institution, such as a credit union, bank, or savings and loan association; or
2. have, other than as a member or customer, a financial interest in a financial institution, such as a credit union, bank, or savings and loan association.

(c) No two members of the commission may be residents of the same state senatorial district.

(d) A person currently serving as chairman, first vice-chairman, president, vice-president, secretary, or treasurer of a state trade association in the credit union industry, or an employee of such an organization, may not serve as a member of the commission.

(e) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon’s Texas Civil Statutes), may not serve as a member of the commission or act as the general counsel to the commission [member of the commission may not be:

[F] a salaried officer, salaried employee, or salaried consultant of a trade association in the credit union industry; or
(a) Related within the second degree by affinity or consanguinity to a person who is a salaried officer, salaried employee, or salaried consultant of a trade association in the credit union industry.

SECTION 52. Section 11.04, Texas Credit Union Act (Article 2461-11.04, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 11.04. VACANCIES; REMOVAL. (a) The office of a member of the commission becomes vacant on January 1 if the member failed to attend more than one-half of the meetings of the commission held during the preceding calendar year, excluding any meetings held before the member assumed office.

(b) The governor may remove a member from the member’s position on the commission for neglect of duty, incompetence, or fraudulent or criminal conduct.

(c) It is grounds for removal from the commission if a member violates a prohibition established by Section 11.02(c) of this Act.

(d) The office of a member of the commission is vacant in the event of the death, resignation, or removal of the member, or if the member ceases to have the qualifications necessary to serve as a member.

(e) In the event of a vacancy on the commission for any cause, the governor, with the advice and consent of the senate, shall promptly appoint a qualified person to fill the unexpired term.

(f) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a member of the commission existed.

SECTION 53. Subsection (b), Section 11.05, Texas Credit Union Act (Article 2461-11.05, Vernon’s Texas Civil Statutes), is amended to read as follows:

(b) Each member of the commission is entitled to per diem, as set by legislative appropriation, for each day that the member engages in the business of the commission [or reimbursement of the reasonable expenses incurred in the performance of his official duties].

SECTION 54. Subsections (c), (f), and (g), Section 11.10, Texas Credit Union Act (Article 2461-11.10, Vernon’s Texas Civil Statutes), are amended to read as follows:

(c) The commissioner shall levy and collect all supervision fees, charges, and revenues required to be paid by credit unions as provided by Subsection (c), Section 11.07, of this Act. All money collected under this Act shall be deposited in the credit union commission expense fund, which is created as a special fund in the state treasury. Money in the fund may be used only for the administration of this Act. Income earned on the money deposited in the credit union commission expense fund shall be credited to that fund.

(f) The commissioner shall supervise the establishment and maintenance of files regarding complaints about credit unions received by the department. The files must include all relevant information regarding the nature, status, and disposition of the complaints. The commissioner shall take the steps that the commissioner determines to be necessary to notify each complainant of the procedures and remedies available for the resolution of complaints. After a written complaint is filed, the commissioner, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation [and to periodically inform each complainant of the status of his complaint].

(g) The commissioner shall supervise the preparation of information regarding the regulatory functions of the department, procedures for filing and resolution of complaints, and other matters of general interest regarding the credit union movement and shall supervise the dissemination of that information to the general public and appropriate state agencies.

SECTION 55. Chapter 11, Texas Credit Union Act (Article 2461-11.01 et seq., Vernon’s Texas Civil Statutes), is amended by adding Section 11.18 to read as follows:
Sec. 11.18. CAREER PROGRAM; PERFORMANCE EVALUATION. (a) The commissioner or his designee shall develop an intra-agency career ladder program, one part of which shall be an intra-agency posting of all nonentry level positions for at least 10 days before any public posting.

(b) The commissioner or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for department employees must be based on the system established under this section.

SECTION 56. Chapter 12, Texas Credit Union Act (Article 2461-12.01 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 12.02 to read as follows:

Sec. 12.02. APPLICATION OF OTHER LAW. (a) In this section:

(1) "Item" means any instrument for the payment of money even though it is not negotiable but does not include money.

(2) "Credit union" means a credit union authorized to do business in this state under this Act or the Federal Credit Union Act.

(b) Unless otherwise provided by written agreement of the parties, the rights, responsibilities, and liabilities of a person regarding an item drawn on a credit union, transferred to a credit union, or presented, remitted, collected, settled, negotiated, or otherwise handled by a credit union, are determined by Chapters 3 and 4, Business & Commerce Code, as if it were drawn on a bank, transferred to a bank, or presented, remitted, collected, settled, negotiated, or otherwise handled by a bank.

SECTION 57. Sections 6.02, 6.03, 6.04, and 11.10(d), Texas Credit Union Act (Article 2461-11.01 et seq., Vernon's Texas Civil Statutes), are repealed.

SECTION 58. The requirements under Section 11.18, Texas Credit Union Act (Article 2461-11.18, Vernon's Texas Civil Statutes), as added by this Act, that the Credit Union Commissioner develop an intra-agency career ladder program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of that section that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985.

SECTION 59. This Act takes effect September 1, 1983.

CSHB 1054 was read second time and was passed to engrossment. (C. Smith recorded voting no)

HB 210 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 210.

CSHB 210

A BILL TO BE ENTITLED
AN ACT
relating to the designation and service of certain public school officials as deputy voter registrars.

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

SECTION 1. Section 52a, Texas Election Code, as amended (Article 5.20a, Vernon's Texas Election Code) is amended by adding Subdivision 6 to read as follows:

Subdivision 6. (a) Each principal or a person designated by the principal of a public high school shall serve as a deputy voter registrar for the county in which the school or institution is located.
(b) A person serving as a deputy voter registrar under this Act may only distribute voter registration applications to and accept voter registration applications from students and employees of the school or institution.

(c) During the final month of each school semester, a person serving as a deputy voter registrar under this Act shall distribute an officially prescribed voter registration form to each high school student who has or will turn eighteen years of age during that semester. The form shall be accompanied by a notice informing the student or employee that he or she may submit the application in person or by mail to the voter registrar of the county in which the registrant resides or in person to the person serving as a deputy voter registrar under this Act for delivery to the voter registrar of the county in which the registrant resides.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 210 was read second time and was passed to engrossment. (C. Smith, Russell, Khoury, and Craddick recorded voting no)

HB 1778 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1778.

CSHB 1778

A BILL TO BE ENTITLED
AN ACT

relating to fees for motor vehicle dealers and providing for bonds for certain motor vehicle dealers.

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

SECTION 1. Article 6686(a)(7), Revised Statutes, is amended to read as follows:

(7) Fees and Forms. Each applicant for an original dealer's or manufacturer's general distinguishing number and master dealer's license plate shall pay to the Department a fee of Two Hundred and Fifty Dollars ($250). Each applicant for renewal of a dealer's or manufacturer's general distinguishing number and master dealer's license plate shall pay to the Department an annual fee of One Hundred Dollars ($100) for the number and master dealer's plate. Each applicant, whether for an original number and master dealer's plate or for renewal of a number and master dealer's plate, shall pay a fee of [and] Ten Dollars ($10) for each additional or supplemental metal dealer's plate desired. All such fees shall be deposited in the State Highway Fund. Applications for a dealer's or manufacturer's license plate, and for renewals thereof, shall be made in writing on forms prescribed and furnished by the Department, and such applications shall require any pertinent information, including sufficient information for the Department to determine that the applicant is actively and regularly engaged in the sale of motor vehicles, motorcycles, house trailers, trailers, or semitrailers as a dealer, to insure proper enforcement and administration; and, furthermore, each such application shall contain a statement to the effect that the applying dealer agrees to permit the Department to examine during working hours the ownership papers for each vehicle, registered or unregistered, in the possession of said dealer or under his control. All facts stated in an application shall be sworn to before an officer authorized to administer oaths and no dealer's or manufacturer's distinguishing number shall be issued until this Act is complied with. All such applications for dealer's or manufacturer's licenses, accompanied by the prescribed fee, should be
made to the Department by January 15 of each year and the license plates for those applications meeting the provisions of this Act will be mailed to the applicants during the succeeding months of February and March. Each dealer's and manufacturer's license shall expire on March 31 of each year. As a condition for the issuance of a license or licenses described in this subsection, each applicant shall procure and file with the Department a good and sufficient bond in the amount of Twenty-Five Thousand Dollars ($25,000). The bond shall be approved as to form by the attorney general and conditioned on the applicant's payment of all valid bank drafts drawn by the applicant for the purchase of motor vehicles from another dealer and the applicant's transfer of good title to each motor vehicle that the applicant purports to sell. Recovery against the bond may be made by any person who obtains a court judgment assessing damages for an act or omission on which the bond is conditioned. If an applicant has a valid dealer's license issued by the Texas Motor Vehicle Commission, the bond required by this subsection is waived.

SECTION 2. This Act takes effect January 1, 1984.

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

CSHB 1778 was read second time and was passed to engrossment.

HB 100 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 100.

CSHB 100

A BILL TO BE ENTITLED
AN ACT
relating to courses held by a community college in facilities of a school district located outside the community college district.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subchapter A, Chapter 130, Texas Education Code, is amended by adding Section 130.006 to read as follows: Sec. 130.006. COURSE HELD OUTSIDE DISTRICT. (a) The trustees of an independent school district located in a county contiguous to, but not a part of, a community college district and the governing board of the community college district may enter into a contract providing for the community college to hold college courses in the school district's facilities. (b) The contract must be approved by resolution of the governing boards of the community college district and the school district. (c) For purposes of state funding, a course held in the school district facilities is considered to be a course held in the community college district if the course: (1) has been approved by a regional higher education council recognized by rule of the coordinating board and in which the district has been designated a member by the coordinating board; and (2) is approved by the coordinating board as an out-of-district course for the community college district. (d) Any statutory or regulatory requirement of local support of a community college program is satisfied by the school district providing its facilities without charge to the community college if the total community college enrollment in the school district does not exceed 1,000 full-time students, or the equivalent. (e) Either party may terminate a contract under this section by giving the other party at least one year's written notice.
SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSHB 100 was read second time and was passed to engrossment.

HB 2092 ON SECOND READING

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

HB 2092, A bill to be entitled An Act relating to the sale of urban renewal land.

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

HB 2251 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 2251.

CSHB 2251

A BILL TO BE ENTITLED
AN ACT
relating to the creation of a state job training program.

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

SECTION 1. SHORT TITLE. This Act may be cited as the Texas Job Training Partnership Act.

SECTION 2. PURPOSE. The purpose of this Act is to facilitate the development and implementation of effective state and local systems for managing job training, employment and related programs in the State of Texas, as authorized by the Federal Job Training Partnership Act (Pub. L. 97-300, 96 Stat. 1322, Sec. 122).

(2) Policy. It is state policy to coordinate all available resources from federal, state, and local governments, business, labor and community based organizations to develop and promote a balanced, equitable and cost-beneficial employment and training system. It is state policy that there be consultation between the governor and the state legislature in implementing the Federal Job Training Partnership Act and this Act.

SECTION 3. ESTABLISHMENT OF STATE GOALS. (a) It is a goal of this state to assist its citizens in obtaining gainful employment and in reducing dependency on public assistance and unemployment compensation by:

(1) preparing young people and unskilled adults who are economically disadvantaged for entry into the work force;

(2) assisting citizens faced with serious barriers to employment to overcome those barriers, including age, handicapped status, lack of education, and locality;

(3) taking an affirmative role in ensuring the maximum utilization of available resources in planning, implementing, and facilitating this Act through a partnership of individuals from the various diverse communities of the state, including but not limited to representatives of business communities, local and state government, ethnic communities, education communities, and the various cultural and socio-economic communities, to participate in decision-making and policy-making activities associated with programs created under this Act; and

(4) retraining individuals whose current skills are no longer in demand in the labor market and who must upgrade their work skills to return to the work force.

(b) It is a goal of this state to develop a well-trained, productive work force to meet the needs of a changing economy by:
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(1) coordinating existing labor market information to maximize its utility for planning and operating programs;
(2) providing enhanced employment and training capabilities specially designed to meet the needs of business and industry, including industries that utilize advanced technology;
(3) linking employment and training services with economic development efforts; and
(4) coordinating the planning and delivery of job training, employment and related programs provided by a number of separate state agencies so as to improve the efficiency and effectiveness of these programs.

SECTION 4. DEFINITIONS. In this Act the definitions set forth in Section 4 of the Federal Act shall apply; definitions set forth below shall have the meanings indicated:
(b) “Grant recipient” means the entity which contracts for and receives funds from the governor.
(c) “Service Delivery Area” means a geographic area designated by the governor, which is composed of one or more units of local government within which programs can be efficiently and effectively provided.
(d) “Labor market area” means an economically integrated geographical area within which individuals may reside and find employment within a reasonable distance.

SECTION 5. ADMINISTRATION. (a) A job training and employment division is established within the governor's office. The division shall:
(1) have responsibility for policy development, program planning, monitoring and evaluation of these programs in coordination with existing state agencies as provided under the Job Training Partnership Act;
(2) provide staff support as directed by the governor for the State Job Training Coordinating Council; and
(3) perform such other functions and duties relating to the job training, employment and related programs as may be required by law or assigned by the governor.
(b) The Governor's office shall:
(1) have primary responsibility for implementation and management of the job training program; and
(2) perform such other functions and duties relating to the job training program as may be required by law or assigned by the Governor.

SECTION 6. MONITORING COMMITTEE. The progress of the implementation of the Job Training Partnership Act in this state shall be monitored by a joint committee appointed by the speaker of the House of Representatives and the lieutenant governor. The committee shall make recommendations for any necessary legislative action or remedies for the next regular session of the legislature as well as recommending congressional remedies.

SECTION 7. PROGRAM DELIVERY SYSTEM. (a) The governor shall designate service delivery areas according to the procedures established in the Federal Act so that:
(1) each SDA meets the requirements in the Federal Act for their establishment;
(2) the number of SDAs, to the extent feasible, is kept to a minimum for the purpose of administrative efficiency; and
(3) each SDA is of such size so as to receive an allocation of funds sufficient to plan and operate an effective local program as determined by the governor.
(b) The governor shall certify a Private Industry Council (PIC) in each service delivery area when the governor determines that the appointments procedures and composition of the members of the PIC are consistent with the requirements of the Federal Act.

(c) The governor shall prescribe criteria for the selection of the local entity to administer programs authorized under the Federal Act to insure that the entity has the capacity to:
   (1) develop plans and provide for efficient and effective programs;
   (2) provide in a timely fashion required and accurate management information; and
   (3) properly disburse, account for and control all expenditure of funds.

(d) The appropriate chief elected officials in each service delivery area, as specified in the Federal Act, shall select the members and the initial size of the PIC in accordance with the procedures specified in the Federal Act.

(e) The appropriate chief elected official or officials in the SDA shall enter into an agreement with the PIC to determine procedures for:
   (1) the selection of the grant recipient, the planning entity and the administrative entity for the SDA; and
   (2) the development of the local job training plan.

SECTION 8. STATE RESPONSIBILITIES. (a) The legislature reserves the right to review and comment on the job training plan submitted from each service delivery area and on the governor's coordination and special services plan. The governor's plans shall be submitted to the lieutenant governor and the speaker of the House not later than February 1 of each odd-numbered year, who shall refer the plans to the appropriate senate and house committees for review and comment.

(b) The state hereby establishes a State Job Training Coordinating Council as required by the Federal Act, hereinafter referred to as the "State Council". The State Council shall:
   (1) be appointed by the governor in accordance with the requirements of the Federal Act;
   (2) have not more than forty (40) members including the chairperson;
   (3) meet not less than quarterly;
   (4) develop and recommend statewide goals and program objectives;
   (5) identify needs for training and employment services;
   (6) review operations of local programs and state agencies providing job training, employment and related programs identified in the Federal Act;
   (7) establish criteria for coordinating program planning and operations;
   (8) evaluate the results of state and local training and employment services;
   (9) develop and recommend the state's coordination and special services plan to the governor;
   (10) perform the functions formerly conducted by the State Coordinating Committee for the work incentive program under Title IV of the Social Security Act, the Advisory Council established under the Wagner-Peyser Act (29 U.S.C. 49) and under Art. 5221(b) V.T.C.S.; and
   (11) perform such functions and duties relating to job training, employment and related programs as required by the Federal Act or as assigned by the governor.

(c) The governor shall:
   (1) prepare a statement of goals and objectives for job training and placement programs within the state;
   (2) be responsible for the planning, monitoring, implementing, and evaluating job training, employment and related programs as provided for by the Federal Act;
   (3) shall monitor or cause to be monitored not less than annually each grant recipient and contractor to assure compliance;
(4) prescribe, within parameters established by the Secretary, variations in the performance standards for programs under the Federal Act. Such variations shall recognize the economic, geographic and demographic differences in various regions of the state;

(5) provide specifications for the design, development, and operation of statewide uniform labor market information system to facilitate the timely availability of employment and training information throughout the state;

(6) develop and provide to service delivery areas information on a state and local area basis regarding economic, industrial, and labor market conditions;

(7) plan, provide for the operation of, and evaluate special model or demonstration programs (including programs receiving financial assistance from private sources);

(8) make available to service delivery areas, with or without reimbursement and upon request, appropriate information and technical assistance to assist in developing and implementing plans and programs;

(9) establish and maintain a computerized statewide management information system to collect and maintain the financial, participant and program data necessary to insure program accountability on a monthly basis;

(10) develop and formally issue procedures to insure consistency of definitions, formats, recordkeeping, data gathering and reporting. These procedures shall concern, but not be limited to:

(a) planning and contracting;
(b) labor market information;
(c) financial management;
(d) participant tracking;
(e) monitoring;
(f) evaluation;
(g) audit;
(h) complaints and grievance procedures;
(i) personnel standards, including equal opportunity compliance;
(j) property management.

(11) at least once every two (2) years, the governor shall provide for an independent audit of each recipient of funds authorized under the Federal Act;

(12) the governor shall approve or disapprove the final local job training plans and modifications according to the criteria established in the Federal Act;

(13) submit a coordination and special services plan to the Secretary of Labor in accordance with the requirements of the Federal Act; and

(14) provide preservice and inservice training to improve professional capability of managers and technical staff of state agencies, local administrative entities, private industry councils; and contractors involved in planning and operating programs.

(d) All state agencies providing employment, job training, and related programs shall provide to the State Council information for planning, reviewing program operations and evaluating program results as required by the Governor. In addition, these agencies shall also submit their plans to the State Council.

SECTION 9. LOCAL RESPONSIBILITIES. (a) For each SDA, it shall be the responsibility of the Private Industry Council (PIC) and the appropriate chief elected official(s) in accordance with an agreement or agreements to:

(1) prepare a plan which provides a comprehensive program of job training, employment and related services in response to the needs of the eligible population within the SDA;

(2) submit such job training plan;

(a) not less than 120 days before the beginning date of the plan, to each house of the state legislature and other entities as prescribed by the Federal Act.
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(3) prepare and submit an annual report to the governor in accordance with the Federal Act;

(4) establish procedures for providing oversight of all programs conducted under the local job training plan;

(5) develop jointly with the employment service those components of the Wagner-Peyser plan which are applicable to that SDA;

(6) maintain records and a management information system designed to facilitate uniform compilation and analysis of programmatic and financial data for the SDA, consistent with federal and state requirements;

(7) establish fiscal, audit and debt collection procedures to insure the proper disbursal, use and accounting of all funds provided under the Federal Act.

(b) The PIC and appropriate chief elected official(s) are responsible for:

(1) the allocation of available resources to its program;

(2) developing procedures and criteria for the selecting of eligible participants and their eligibility determination; and

(3) the selection of service providers with a demonstrated capability to provide effective services and achieve performance goals.

(c) If there is more than one SDA in a single labor market area, the PIC and the appropriate chief elected official(s) for each such SDA shall coordinate those activities as required by the Federal Act.

SECTION 10. RULES AND REGULATIONS. The governor may in accordance with Article 6252-133, V.T.C.S., prescribe such rules and regulations as the governor deems necessary to carry out the provisions of this Act and the Federal Act.

SECTION 11. SEVERABILITY CLAUSE. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable.

SECTION 12. CONFORMING AMENDMENT. Section 10(c) of Article 5221b, V.T.C.S., is amended to read as follows:

(c) Employment Service [and Advisory Council]. The Commission is authorized to operate a public employment service but it is not necessary that same be operated as a separate division of the Commission. [(The Commission is also authorized to appoint a State Advisory Council composed of persons representing employers, employees and the public. Advisory Council members shall be allowed and paid as a part of the cost of administering this Act and in accordance with regulations of the Commission, necessary travel and subsistence expenses, in addition to a per diem allowance, in connection with meetings of the Council, but they shall for no purpose be regarded as State employees. The Commission shall fix the composition and establish the duties of the State Advisory Council and may take such action as it deems necessary or suitable to this end. The Commission may likewise appoint and pay local advisory councils and consultants under the same conditions prescribed herein for the State Advisory Council.)]

SECTION 13. EFFECTIVE DATE. This Act takes effect September 1, 1983.

SECTION 14. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 2251 was read second time and was passed to engrossment. (Ceverha, Pierce, Schoolcraft, Fox, Schlueter, Pennington, Rudd, Toomey, C. Smith, T. Smith, A. Smith, and DeLay recorded voting no)
The chair laid before the house on its second reading and passage to
engrossment.

**HB 845, A bill to be entitled An Act relating to the property tax exemption of certain organizations that promote or operate art galleries, museums, and collections.**

(Messer in the chair)

The bill was read second time and was passed to engrossment. (Ceverha recorded voting no)

**SB 703 ON THIRD READING**

(Berlanga - House Sponsor)

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

**SB 703, A bill to be entitled An Act relating to the duties of the Family Practice Residency Advisory Committee; amending Subsection (f), Section 61.505, Texas Education Code.**

A record vote was requested.

The bill was read third time and was passed by (Record 335): 141 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Hackney; Hall, L.; Sutton.

Absent — Green; Heflin; Saunders; Uher.

(Speaker pro tempore in the chair)

**SB 826 ON SECOND READING**

(Emmett - House Sponsor)

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

**SB 826, A bill to be entitled An Act relating to the authority of a county to set and collect fees for the use of county recreational facilities and services.**
The bill was read second time and was passed to third reading.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for today because of state business:

Utter on motion of Laney.

**SB 151 ON SECOND READING**

(C. Evans - House Sponsor)

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

SB 151, A bill to be entitled An Act relating to the continuation, operation, membership, terms, and grounds for removal of member of the State Banking Board; making certain financial statements confidential; amending Article 15, Chapter 1, The Texas Banking Code of 1943 (Article 342-115, Vernon's Texas Civil Statutes) and amending Article 5, Chapter III, The Texas Banking Code of 1943 (Article 342-305, Vernon's Texas Civil Statutes), by amending Section D and adding Section F.

The bill was read second time.

Representative C. Evans offered the following amendment to SB 151:

Amend the Committee Substitute for SB 151 as follows:

On page 2, line 6, insert after the period:

"The citizen member of the Board may not be an officer, employee, or paid consultant of a trade association in the banking industry and may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the banking industry."

The amendment was adopted without objection. (Hury and Criss recorded voting no)

SB 151, as amended, was passed to third reading. (C. Smith recorded voting present-not voting)

**SB 100 ON SECOND READING**

(Schlueter - House Sponsor)

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

SB 100, A bill to be entitled An Act relating to continuation, organization, personnel, functions, powers, and duties of the State Depository Board and the application of other laws to the board; giving certain savings and loan associations rights to apply for and be designated as state depositories; amending Articles 2525, 2525a, 2526, and 2532, Revised Statutes, as amended; providing different effective dates.

The bill was read second time and was passed to third reading. (C. Smith recorded voting present-not voting)

**SB 149 ON SECOND READING**

(Messer - House Sponsor)

The chair laid before the house on its second reading and passage to third reading.
SB 149, A bill to be entitled An Act relating to the operation and regulation of state savings and loan associations and the savings and loan department, to the continuation of the office of the savings and loan commissioner, and to his powers and duties; prescribing procedures for acquiring voting securities or control of an association; giving an association benefits of provisions of Chapter 4, Business & Commerce Code; defining offenses and providing enforcement procedures and penalties; amending Article 5, Chapter II, The Texas Banking Code of 1943; by amending Subsections (h) and (j) and adding Subsections (k) through (q); and amending the Texas Savings and Loan Act by amending Sections 2.02, 2.07, 5.16, 11.05, and 11.20; by adding Section 11.21; and by repealing Section 11.15 (Articles 342-205 and 852a, Vernon's Texas Civil Statutes).

The bill was read second time.

Representative Messer offered the following amendment to the bill:

Amend SB 149 as amended as follows:

1. On page 2, strike the sentence beginning on line 11 and substitute: "All sums of money paid to the Savings and Loan Department from all sources shall be paid to the State Treasurer to be deposited to the credit of a special fund to be known as the Savings and Loan Department Expense Fund. Income earned on money deposited to the credit of the fund shall be deposited to that fund. All expenses incurred by the Savings and Loan Department shall be paid only from this Savings and Loan Department Expense Fund."

2. Insert the following on page 2 after the word "fund" on line 22: "Not later than June 1 of each even-numbered year, the Commissioner shall submit to the Finance Commission a proposed budget for operation of the Savings and Loan Department for the next state fiscal biennium. The Commission shall review the proposed budget and, not later than July 31 of that year, approve the budget with such amendments as the Commission considers appropriate. During each regular legislative session the Commission shall submit certified copies of the approved budget to the Legislature. In appropriating money in the Savings and Loan Department Expense Fund, the Legislature may amend the budget as it considers appropriate. The Commission shall amend the budget as necessary to conform the budget to legislative appropriations. The State Treasurer may disburse money from the fund only on the written authorization of the Commissioner, and only in accordance with the current Savings and Loan Department budget approved by the Finance Commission and by the Legislature in the General Appropriations Act or other applicable statutes as provided by this Act.

3. Strike Section 11 of the bill as amended and substitute the following:

SECTION 11. (a) Except as provided by Subsection (b) and (c) of this section, this Act takes effect September 1, 1983.

(b) Section 1 of this Act takes effect September 1, 1985, except that for purposes of preparation by the Savings and Loan Commissioner of a proposed budget for the 1985-1987 state fiscal biennium and action on that proposed budget by the Finance Commission, Section 1 takes effect January 1, 1984. All funds in the custody of the Savings and Loan Department that are subject to Article 5, Chapter II, the Texas Banking Code of 1943 (Article 342-205, Vernon's Texas Civil Statutes), on September 1, 1985, shall be transferred to the State Treasurer on that date for deposit to the credit of the Savings and Loan Department Expense Fund.

(c) Sections 2, 3, 4, 6, 8, 9, 10 and 11 of this Act shall be effective when this Act is signed by the Governor.

The amendment was adopted without objection.
Representative Ragsdale offered the following amendment to the bill:

Amend SB 149, SECTION 2, page 5, by adding a new subsection (r) to read as follows:

(r) The Commissioner shall prepare and maintain a written plan to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The plans shall include:

(1) a comprehensive analysis of all the agency's workforce by race, sex, ethnic origin, class of position, and salary or wage;

(2) plans for recruitment, evaluation, selection, appointment, training, promotion and other personnel policies;

(3) steps reasonably designed to overcome any identified under-utilization of minorities and women in the agency's workforce; and

(4) objectives and goals, timetables for the achievement of the objectives and goals, and assignments of responsibility for their achievement.

The plans shall be filed with the Governor's office within sixty days of the effective date of this Act, cover an annual period and be updated at least annually. Progress reports shall be submitted to the Governor's office within thirty days of November 1 and April 1 of each year and shall include the steps the agency has taken within the reporting period to comply with these requirements.

The amendment was adopted without objection.

SB 149, as amended, was passed to third reading. (C. Smith recorded voting present-not-voting)

SB 294 ON SECOND READING
(C. Evans - House Sponsor)

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

SB 294, A bill to be entitled An Act relating to powers and duties, staff, and operation of the Banking Department and to the continuation, authority, and powers and duties of the office of Banking Commissioner of Texas; amending Article 12, Chapter I, The Texas Banking Code of 1943 (Article 342-112, Vernon's Texas Civil Statutes); amending Articles 1a and 10, Chapter II, The Texas Banking Code of 1943 (Article 342-210a and 342-210, Vernon's Texas Civil Statutes); amending Chapter II, The Texas Banking Code of 1943 (Article 342-201 et seq., Vernon's Texas Civil Statutes), by adding Articles 12, 13, 14, and 15; amending Chapter 388, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 1513a, Vernon's Texas Civil Statutes), by adding Sections 2A and 2B; amending Article 8, Chapter II, The Texas Banking Code of 1943, as amended by Section 1, Chapter 199 and Section 2, Chapter 641, Acts of the 67th Legislature, Regular Session, 1981 (Article 342-208, Vernon's Texas Civil Statutes).

The bill was read second time.

Representative Wallace offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend SB 294, on page 2, by striking lines 14-17 and substituting the following:

"3. All money collected under this Act shall be deposited in the Banking Department expense fund, which is created as a special fund in the state treasury."
Money in the fund may be used only for the administration of this Act. Income earned on money deposited in the Banking Department expense fund shall be credited to that fund. Representative C. Evans offered the following amendment to Committee Amendment No. 1:

Amend SB 294 as follows:

(1) On pages 2 and 3 strike Section 3 of Article 12 and substitute the following:

3. All sums of money paid to the Banking Department from any source shall be paid to the State Treasurer to be deposited in the State Treasury to the credit of a special fund to be known as the Banking Department Expense Fund. Income earned on money deposited to the credit of the fund shall be credited to that fund. [Fees, penalties and revenues collected by the Banking Department from every source whatever shall be retained and held by said Department, and no part of such fees, penalties and revenues shall ever be paid into the General Revenue Fund of this State:] All expenses incurred by the Banking Department shall be paid only from the Banking Department Expense Fund [such fees, penalties and revenues], and no such expense shall ever be a charge against any other [the] funds of this State. No part of the amount credited to the Banking Department Expense Fund may be transferred to the General Revenue Fund, and no amount may be transferred to the Banking Department Expense Fund from the General Revenue Fund.

4. Not later than June 1 of each even-numbered year, the Commissioner shall submit to the Finance Commission a proposed budget for operation of the Banking Department for the next state fiscal biennium. The Commission shall review the proposed budget and, not later than July 31 of that year, approve the budget with such amendments as the Commission considers appropriate. During each regular legislative session, the Commission shall submit certified copies of the approved budget to the Legislature. In appropriating money in the Banking Department Expense Fund, the Legislature may amend the budget as it considers appropriate. The Commission shall amend the budget as necessary to conform the budget to legislative appropriation.

5. The State Treasurer may disburse money from the Banking Department Expense Fund only on the written authorization of the Commissioner and only in accordance with the current Banking Department budget approved by the Finance Commission and by the Legislature in the General Appropriation Act or other applicable statute as provided by this Article. [The Finance Commission shall adopt and from time to time amend, budgets which shall direct the purposes and prescribe the amounts, for which the fees, penalties and revenues of the Banking Department shall be expended, and the Finance Commission shall, as of December 31, 1985; and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements of the Banking Department for each calendar year; and shall make a report to the appropriate committees of the House and Senate charged with considering legislation pertaining to banking]

(2) Strike Section 8 of the bill and substitute the following:

SECTION 8. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1983.

(b) Section 1 of this Act takes effect September 1, 1985, except that for purposes of preparation by the Banking Commissioner of Texas of a proposed budget for the 1985-1987 state fiscal biennium and action on that proposed budget by the Finance Commission of Texas, Section 1 takes effect January 1, 1984. All funds in the custody of the Banking Department that are subject to Article 12,
Chapter I, The Texas Banking Code of 1943 (Article 342-112, Vernon’s Texas Civil Statutes), on September 1, 1985, shall be transferred to the State Treasurer on that date for deposit to the credit of the Banking Department Expense Fund.

The amendment was adopted without objection. (Hury recorded voting no)

Committee Amendment No. 1, as amended, was adopted without objection. (Hury recorded voting no)

Representative Ragsdale offered the following amendment to the bill:

Amend SB 294, SECTION 4, page 5, line 23, by adding a new subsection 3 to proposed Article 13 to read as follows:

> 3. The Banking Commissioner shall prepare and maintain a written plan to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The plans shall include:
>  (1) a comprehensive analysis of all the agency’s workforce by race, sex, ethnic origin, class of position, and salary or wage;
>  (2) plans for recruitment, evaluation, selection, appointment, training, promotion and other personnel policies;
>  (3) steps reasonably designed to overcome any identified under-utilization of minorities and women in the agency’s workforce; and
>  (4) objectives and goals, timetables for the achievement of the objectives and goals, and assignments of responsibility for their achievement.

The plans shall be filed with the Governor’s office within sixty days of the effective date of this Act, cover an annual period and be updated at least annually. Progress reports shall be submitted to the Governor’s office within thirty days of November 1 and April 1 of each year and shall include the steps the agency has taken within the reporting period to comply with these requirements.

The amendment was adopted without objection. (Hury recorded voting no)

SB 294, as amended, was passed to third reading. (A. Smith and Hury recorded voting no; C. Smith, present-not voting)

SB 405 ON SECOND READING

(Coody - House Sponsor)

The chair laid before the house on its second reading and passage to third reading, the complete committee substitute for SB 405.

CSSB 405

A BILL TO BE ENTITLED

AN ACT

relating to the continuation, operation, personnel, powers, and duties of the Office of Consumer Credit Commissioner and to its regulatory responsibility concerning pawnshops and certain lenders, to credit card transactions and merchant discounts, to quarterly and annualized interest ceilings, to limitations on certain open-end account credit agreements, to computations of ending balances, and to creditors’ disclosure requirements; amending Articles 2.02, 3.08, 3.09, 3.10, 3.11, 3.12, 3.19, 3.20, 3.21, Subsection (6), Section (n), and Section (d), Article 1.04; Section (1), Article 3.01; Section (2), Article 3.02; Section (1), Article 3.12; Sections (1) and (3), Article 3.14; Sections (1), (3), (4), Subsections (a) and (b), Section (6), and Sections (7) and (8), Article 3.15; Sections (1) and (3), Article 3.16; Section (3), Article 3.18; Section (c), Article 15.01; and Sections (d) and (e), Article 15.02. Title 79, Revised Statutes, as amended (Articles 5069-2.02, 5069-3.08, 5069-3.09, 5069-3.10, 5069-3.11, 5069-3.13, 5069-3.19, 5069-3.20, 5069-3.21, 5069-1.04,
5069-3.01, 5069-3.02, 5069-3.12, 5069-3.14, 5069-3.15, 5069-3.16, 5069-3.18, 5069-15.01, and 5069-15.02, Vernon's Texas Civil Statutes; amending Chapter 1, Title 79, Revised Statutes (Article 5069-1.01 et seq., Vernon's Texas Civil Statutes), by adding Articles 1.10 and 1.11; Sections (g), (h), and (i), Article 1.01; and Subsections (4), (5), and (6), Section (b), Article 1.04; amending Chapter 2, Title 79, Revised Statutes (Article 5069-2.01 et seq., Vernon's Texas Civil Statutes), by adding Articles 2.02A, 2.02B, 2.02C, and 2.02D; and amending Sections 3A. 7, and 7A, Texas Pawnshop Act (Articles 5069-5t.03A, 5069-51.07, and 5069-51.07A, Vernon's Texas Civil Statutes); and repealing Article 3.04, Title 79, Revised Statutes (Article 5069-3.04, Vernon's Texas Civil Statutes).

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

SECTION 1. Subsection (6), Section (n), Article 1.04, Title 79, Revised Statutes, as amended (Article 5069-1.04, Vernon's Texas Civil Statutes), is amended to read as follows:

"(6) Any person subject to the Texas Credit Union Act, as amended (Article 2461-1.01 et seq., Vernon's Texas Civil Statutes), who contracts for, charges, or receives a rate authorized by this Article shall comply with all other duties, obligations, and prohibitions of that Act and the parties to the transaction have all other rights provided by that Act, except to the extent inconsistent with this Article. Notwithstanding this Article, credit unions are not subject to Chapter 15 or Subtitle 2 of this Title and are not required to obtain a license under this Title."

SECTION 2. Chapter 1, Title 79, Revised Statutes, as amended (Article 5069-1.01 et seq., Vernon's Texas Civil Statutes), is amended by adding Article 1.10 to read as follows:

"Article 1.10. APPLICATION AND EXEMPTION. (a) Notwithstanding Article 1.04 of this title, a credit union is not subject to Chapter 15 or Subtitle 2 of this title and is not required to obtain a license under this title.

(b) With respect to loans that an employee benefit plan makes to participants in such plan or to their beneficiaries, an employee benefit plan that is subject to the provisions of Title I of the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sections 1001-1114, as amended, shall not be subject to Chapter 15 or Subtitle 2 of this title and is not required to obtain a license under this title."

SECTION 3. Article 2.02, Title 79, Revised Statutes, as amended (Article 5069-2.02, Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 2.02. CREATION OF THE OFFICE OF CONSUMER CREDIT COMMISSIONER AND DIVISION OF CONSUMER PROTECTION. (1) The Office of Consumer Credit Commissioner of the State of Texas is established.

(2) The Commissioner shall be appointed by the Finance Commission and shall serve at the pleasure of the Finance Commission. The Consumer Credit Commissioner shall be an employee of the Finance Commission, subject to its orders and directions.

(2) The Consumer Credit Commissioner shall, from time to time, as directed by the Finance Commission, submit to the Finance Commission a full and complete report of the receipts and expenditures of this Office, and the Finance Commission may, from time to time, examine the financial records of the Office of Consumer Credit Commissioner, or cause them to be examined. In addition, the Office of Consumer Credit Commissioner shall be audited from time to time by the state auditor in the same manner as state departments; and the actual costs of such audit shall be paid to the state auditor from the funds of the Office of the Consumer Credit Commissioner. The Finance Commission shall report to the Governor of the State of Texas the receipts and disbursements of the Office of Consumer Credit Commissioner for each calendar year."

BE IT ENACTED BY THE ADVISORY BOARD OF THE STATE OF TEXAS:

SECTION 1. Subsection (6), Section (n), Article 1.04, Title 79, Revised Statutes, as amended (Article 5069-1.04, Vernon's Texas Civil Statutes), is amended to read as follows:

"(6) Any person subject to the Texas Credit Union Act, as amended (Article 2461-1.01 et seq., Vernon's Texas Civil Statutes), who contracts for, charges, or receives a rate authorized by this Article shall comply with all other duties, obligations, and prohibitions of that Act and the parties to the transaction have all other rights provided by that Act, except to the extent inconsistent with this Article. Notwithstanding this Article, credit unions are not subject to Chapter 15 or Subtitle 2 of this Title and are not required to obtain a license under this Title."

SECTION 2. Chapter 1, Title 79, Revised Statutes, as amended (Article 5069-1.01 et seq., Vernon's Texas Civil Statutes), is amended by adding Article 1.10 to read as follows:

"Article 1.10. APPLICATION AND EXEMPTION. (a) Notwithstanding Article 1.04 of this title, a credit union is not subject to Chapter 15 or Subtitle 2 of this title and is not required to obtain a license under this title.

(b) With respect to loans that an employee benefit plan makes to participants in such plan or to their beneficiaries, an employee benefit plan that is subject to the provisions of Title I of the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sections 1001-1114, as amended, shall not be subject to Chapter 15 or Subtitle 2 of this title and is not required to obtain a license under this title."

SECTION 3. Article 2.02, Title 79, Revised Statutes, as amended (Article 5069-2.02, Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 2.02. CREATION OF THE OFFICE OF CONSUMER CREDIT COMMISSIONER AND DIVISION OF CONSUMER PROTECTION. (1) The Office of Consumer Credit Commissioner of the State of Texas is established.

(2) The Commissioner shall be appointed by the Finance Commission and shall serve at the pleasure of the Finance Commission. The Consumer Credit Commissioner shall be an employee of the Finance Commission, subject to its orders and directions.

(2) The Consumer Credit Commissioner shall, from time to time, as directed by the Finance Commission, submit to the Finance Commission a full and complete report of the receipts and expenditures of this Office, and the Finance Commission may, from time to time, examine the financial records of the Office of Consumer Credit Commissioner, or cause them to be examined. In addition, the Office of Consumer Credit Commissioner shall be audited from time to time by the state auditor in the same manner as state departments; and the actual costs of such audit shall be paid to the state auditor from the funds of the Office of the Consumer Credit Commissioner. The Finance Commission shall report to the Governor of the State of Texas the receipts and disbursements of the Office of Consumer Credit Commissioner for each calendar year."
"(3) The [There is hereby created the] Division of Consumer Protection is established under the direction and supervision of the Consumer Credit Commissioner.

"(4) If a written contract of an authorized lender is subject to regulation by the Office of Consumer Credit Commissioner, the contract must contain the name, mailing address, and telephone number of the Office of Consumer Credit Commissioner.

"(5) The Office of Consumer Credit Commissioner is subject to the open meetings act, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). The Consumer Credit Commissioner shall have authority to appoint and remove, and prescribe the duties of, such assistant commissioners, examiners and employees as may be necessary to maintain and operate the Office of the Consumer Credit Commissioner and the Division of Consumer Protection.

"(6) The Consumer Credit Commissioner shall enforce the provisions of Chapters 2, 3, 4, 5, 6, 7, 8, 9, and 15 of this Title in person or through assistant commissioners or any examiner or employee. The Consumer Credit Commissioner, each assistant commissioner, each examiner, and each employee shall not be personally liable for damages occasioned by his official acts or omissions except when such acts or omissions are corrupt or malicious. The Attorney General shall defend any action brought against any of the above-mentioned officers or employees by reason of his official act or omission whether or not at the time of the institution of the action the defendant has terminated his services with the Office of the Consumer Credit Commissioner.

"(7) The Consumer Credit Commissioner, assistant commissioners, examiners and employees shall, before entering upon the duties of office, take an oath of office and make a fidelity bond in the sum of Ten Thousand Dollars payable to the Finance Commission and its successors in office, in individual, schedule or blanket form, executed by a surety appearing upon the list of approved sureties acceptable to the Finance Commission. The bond shall be in form approved by the Finance Commission.

"(8) The Consumer Credit Commissioner shall also have responsibility to coordinate, encourage, aid and assist public and private agencies, organizations and groups, and consumer-credit institutions in the development and operation of voluntary educational and debt counseling programs designed to promote the prudent and beneficial use of consumer credit by citizens of the State.

"(9) The Consumer Credit Commissioner through the Division of Consumer Protection shall also have the responsibility to coordinate, encourage, aid and assist public and private agencies, organizations and groups and consumer-protection institutions in the development and operation of voluntary education consumer protection programs designed to promote prudent and informed consumer action by the citizens of the State.

"(6) [8] The Office of Consumer Credit Commissioner is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the office is abolished effective September 1, 1995 (1983)."

SECTION 4. Chapter 2, Title 79, Revised Statutes, as amended (Article 5069-2.01 et seq., Vernon's Texas Civil Statutes), is amended by adding Article 2.02A to read as follows:

"Article 2.02A. POWERS AND DUTIES OF COMMISSIONER. (1) The Consumer Credit Commissioner shall enforce Chapters 2, 3, 4, 5, 6, 7, 8, 9, and 15 of this title in person or through assistant commissioners or any examiner or employee.
“(2) The Consumer Credit Commissioner shall coordinate, encourage, aid, and assist public and private agencies, organizations, and groups and consumer credit institutions in the development and operation of voluntary educational and debt counseling programs designed to promote the prudent and beneficial use of consumer credit by citizens of the state.

“(3) The Consumer Credit Commissioner through the Division of Consumer Protection shall coordinate, encourage, aid, and assist public and private agencies, organizations, and groups and consumer protection institutions in the development and operation of voluntary education consumer protection programs designed to promote prudent and informed consumer action by the citizens of the state.

“(4) The Consumer Credit Commissioner shall prepare information of consumer interest describing the regulatory functions of the Office of Consumer Credit Commissioner and the procedures by which consumer complaints are filed with and resolved by the Office of Consumer Credit Commissioner. The Consumer Credit Commissioner shall make the information available to the general public and appropriate state agencies.

“(5) The Consumer Credit Commissioner shall have authority to appoint and remove and prescribe the duties of such assistant commissioners, examiners, and employees as may be necessary to maintain and operate the Office of Consumer Credit Commissioner and the Division of Consumer Protection.

“(6) The Consumer Credit Commissioner shall develop a procedure to ensure that any person holding the Office of Consumer Credit Commissioner and each assistant commissioner, examiner, and employee of the office be informed of the legally required standards of conduct for state officials and employees.

“(7) The Consumer Credit Commissioner or his designee shall develop an intra-agency career ladder program, one part of which shall be the intra-agency posting of all nonentry level positions for at least 10 days before any public posting.

“(8) The Consumer Credit Commissioner or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for employees of the Office of Consumer Credit Commissioner shall be based on the system established under this section.

“(9) The Consumer Credit Commissioner shall establish reasonable and necessary fees for carrying out his powers and duties under this title.”

SECTION 5. Chapter 2, Title 79, Revised Statutes, as amended (Article 5069-2.01 et seq., Vernon’s Texas Civil Statutes), is amended by adding Article 2.02B to read as follows:

“Article 2.02B. OFFICE FINANCES. (1) All money collected under this Act shall be deposited in the Office of the Consumer Credit Commissioner expense fund, which is created as a special fund in the state treasury. Money in the fund may be used only for the administration of this Act. Income earned on money deposited in the expense fund shall be credited to that fund.

“(2) The Office of Consumer Credit Commissioner shall be audited from time to time by the state auditor in the same manner as state departments, and the actual costs of such audit shall be paid to the state auditor from the funds of the Office of Consumer Credit Commissioner.”

SECTION 6. Chapter 2, Title 79, Revised Statutes (Article 5069-2.01 et seq., Vernon’s Texas Civil Statutes), is amended by adding Article 2.02C to read as follows:

“Article 2.02C. EMPLOYEES. (1) The Consumer Credit Commissioner, assistant commissioners, examiners, and employees shall, before entering on the duties of office, take an oath of office and make a fidelity bond in the sum of $10,000 payable to the Finance Commission and its successors in office, in individual, schedule, or blanket form, executed by a surety appearing upon the list of approved
sureties acceptable to the Finance Commission. The bond shall be in form approved by the Finance Commission.

"(2) The Consumer Credit Commissioner, each assistant commissioner, each examiner, and each employee shall not be personally liable for damages occasioned by his official acts or omissions except when such acts or omissions are corrupt or malicious. The attorney general shall defend any action brought against any of the above mentioned officers or employees by reason of his official act or omission whether or not at the time of the institution of the act the defendant has terminated his service with the Office of the Consumer Credit Commissioner.

"(3) The Consumer Credit Commissioner or an assistant commissioner, examiner, or employee of the office may not be an officer, employee, or paid consultant of a trade association in an industry regulated by the Office of Consumer Credit Commissioner."

SECTION 7. Chapter 2, Title 79, Revised Statutes (Article 5069-2.01 et seq., Vernon's Texas Civil Statutes), is amended by adding Article 2.02D to read as follows:

"Article 2,02D. COMPLAINTS. (1) The Consumer Credit Commissioner shall keep an information file about each complaint filed with the Office of Consumer Credit Commissioner relating to a licensee or other lender whom the Office of Consumer Credit Commissioner is authorized to regulate under this title.

"(2) If a written complaint is filed with the Office of Consumer Credit Commissioner relating to a licensee or other lender whom the Office of Consumer Credit Commissioner is authorized to regulate under this title, the Consumer Credit Commissioner, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation."

SECTION 8. Section (1), Article 3.01, Title 79, Revised Statutes, as amended (Article 5069-3.01, Vernon's Texas Civil Statutes), is amended to read as follows:

"(1) Only a person who has obtained [On or after the effective date of this Chapter, no person shall, without first obtaining] a license from the Consumer Credit Commissioner or a bank or savings and loan association doing business under the laws of this state or of the United States is an authorized lender under this Chapter and may[en] engage in the business of making, transacting, or negotiating loans with cash advances of Two Thousand, Five Hundred Dollars or less, and contract for, charge or receive, directly, or indirectly, on or in connection with any such loan, any charges, whether for interest, compensation, consideration or expense or other thing or otherwise, which in the aggregate are greater than such person would be permitted by law to charge if he were not an authorized lender [a licensee] under this Chapter."

SECTION 9. Section (2), Article 3.02, Title 79, Revised Statutes (Article 5069-3.02, Vernon's Texas Civil Statutes), is amended to read as follows:

"(2) Every authorized lender [licensee] shall maintain on file with the Consumer Credit Commissioner a written appointment of a resident of this State as his agent for service of all judicial or other process or legal notice, unless the lender [licensee] has appointed an agent under another statute of this State. In case of noncompliance, such service may be made on the Consumer Credit Commissioner."

SECTION 10. Article 3.08, Title 79, Revised Statutes, as amended (Article 5069-3.08, Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 3.08. EXAMINATION OF LENDERS [LICENSEES], ACCESS TO RECORDS, INVESTIGATION. At such times as the Commissioner shall deem necessary, the Commissioner, or his duly authorized representative shall make an examination of the place of business of each authorized lender [licensee] and shall inquire into and examine the loans, transactions, books, accounts, papers,
correspondence, and records of such lender [licensee] insofar as they pertain to the
business regulated by this Chapter. In the course of such examination, the
Commissioner or his duly authorized representative shall have free access to the
office, place of business, files, safes and vaults of such lender [licensee], and shall
have the right to make copies of such books, accounts, papers, correspondence and
records. The Commissioner or his duly authorized representative may, during the
course of such examination, administer oaths and examine any person under oath
upon any subject pertinent to any matter about which the Commissioner is
authorized or required by this Chapter to consider, investigate, or secure
information. Any authorized lender [licensee] who shall fail or refuse to let the
Commissioner or his duly authorized representative examine or make copies of
such books, or other relevant documents shall thereby be deemed in violation of this
Chapter and such failure or refusal shall constitute grounds for the suspension or
revocation of the lender [licensee]'s license. The information obtained in the course
of such examination shall be confidential. Each authorized lender [licensee] shall pay
to the Commissioner an amount assessed by the Commissioner to cover the direct
and indirect cost of such examination and a proportionate share of general
administrative expense, and the total cost so assessed and charged an authorized
lender [licensee] in any one calendar year shall not exceed Five Hundred Dollars
for each licensed or otherwise authorized office.

SECTION 11. Article 3.09, Title 79, Revised Statutes (Article 5069-3.09,
Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 3.09. INVESTIGATION. For the purpose of discovering violations
of this Chapter or of securing information required hereunder, the Consumer Credit
Commissioner or his duly authorized representatives may investigate the books,
accounts, papers, correspondence and records of any authorized lender [licensee]
or other person whom the Consumer Credit Commissioner has reasonable cause to
believe is violating any provision of this Chapter whether or not such person shall
claim to be within the authority or scope of this Chapter. For the purposes of this
Article any person who advertises for, solicits or holds himself out as willing to make
loans with cash advances in the amount or the value of Two Thousand, Five
Hundred Dollars or less, shall be presumed to be engaged in the business described
in Article 3.01 of this Chapter."

SECTION 12. Article 3.10, Title 79, Revised Statutes, as amended (Article
5069-3.10, Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 3.10. RECORDS. (1) Each authorized lender [licensee] shall keep or
make available in this State such books and records relating to loans made under
this Chapter as are necessary to enable the Commissioner to determine whether the
lender [licensee] is complying with this Chapter. However, an authorized lender [licensee]
making, transacting, or negotiating loans in Texas principally by mail shall
pay to the Commissioner an amount to be assessed by him to cover the direct
and indirect costs of examinations and a proportionate share of general administrative
expense. Such books and records shall be consistent with accepted accounting
practices.

(2) Each authorized lender [licensee] shall preserve or make available such
books and records in this State, or at the principal place of business of a lender
[licensee] who makes, transacts, or negotiates loans principally by mail, for four
years from the date of the loan, or two years from the date of the final entry made
thereon, whichever is later. Each lender's [licensee]'s system of records shall be
accepted if it discloses such information as may be reasonably required under
Section (1) of this Article. All obligations signed by borrowers shall be kept at an
office in this State designated by the lender [licensee], except when transferred under
an agreement which gives the Commissioner access thereto."
SECTION 13. Article 3.11, Title 79, Revised Statutes (Article 5069-3.11, Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 3.11. ANNUAL REPORTS. Each authorized lender [licensee] shall, annually on or before the first day of April or other date thereafter fixed by the Consumer Credit Commissioner file a report with the Consumer Credit Commissioner giving such relevant information as the Consumer Credit Commissioner may reasonably require concerning the business and operations during the preceding calendar year for each licensed or otherwise authorized place of business conducted by the lender [licensee] within the State. Such report shall be made under oath and shall be in the form prescribed by the Consumer Credit Commissioner, who shall make and publish annually a consolidated analysis and recapitulation of such reports, but the individual reports shall be held confidential."

SECTION 14. Section (1), Article 3.12, Title 79, Revised Statutes (Article 5069-3.12, Vernon's Texas Civil Statutes), is amended to read as follows:

"(1) The State Finance Commission may make regulations necessary for the enforcement of this Chapter and consistent with all of its provisions. Each such regulation shall refer to the Article, Section or Subsection to which it applies. Before making a regulation the Consumer Credit Commissioner shall give every authorized lender [licensee] at least thirty days' written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed regulation. At the hearing, any authorized lender [licensee] or other person may be heard and may introduce evidence, data, or arguments or place the same on file. The Consumer Credit Commissioner shall recommend, and the State Finance Commission, after consideration of all relevant matters presented, shall adopt and promulgate every regulation in written form stating the date of adoption and the date of promulgation. Each regulation shall be entered in a permanent book which shall be a public record and be kept in the Consumer Credit Commissioner's office. A copy of every regulation shall be mailed to each authorized lender [licensee] and no regulation shall become effective until the expiration of at least twenty days after such mailing."

SECTION 15. Article 3.13, Title 79, Revised Statutes, as amended (Article 5069-3.13, Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 3.13. ADVERTISING. No authorized lender [licensee] shall advertise or cause to be advertised, in any manner whatsoever, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions of any loan."

SECTION 16. Sections (1) and (3), Article 3.14, Title 79, Revised Statutes (Article 5069-3.14, Vernon's Texas Civil Statutes), are amended to read as follows:

"(1) An authorized lender [licensee] may conduct the business of making loans under this Chapter within any offices, suite, room or place of business in which any other business is solicited or engaged in, or in association or conjunction with any other business, unless the Commissioner shall find, after a hearing, that the conduct by the lender [licensee] of such other business in the particular [licensed] office has concealed evasions of this Chapter and shall order such lender [licensee] in writing, to desist from such conduct in such office."

"(3) Nothing in this Chapter shall be construed to limit the loans of any authorized lender [licensee] to residents of the community in which the licensed or otherwise authorized office is situated or to prohibit the lender [licensee] from making loans by mail."

SECTION 17. Sections (1), (3), (4), and (5); Subsections (a) and (b), Section (6); and Sections (7) and (8), Article 3.15, Title 79, Revised Statutes, as amended (Article 5069-3.15, Vernon's Texas Civil Statutes), are amended to read as follows:

"(1) Every authorized lender [licensee] may contract for and receive on any loan made under this Chapter repayable in consecutive monthly installments,
substantially equal in amount, an interest charge, however calculated or shown, that
does not exceed an add-on interest charge computed on the cash advance for the
full term of the loan contract in accordance with the following schedule:

"Eighteen Dollars per One Hundred Dollars per annum on that part of the cash
advance not in excess of Three Hundred Dollars, and Eight Dollars per One
Hundred Dollars per annum on that part of the cash advance in excess of Three
Hundred Dollars but not in excess of Twenty-five Hundred Dollars."

"(3) Notwithstanding the foregoing, an authorized lender [licensee] may
make loans which require repayment in other than substantially equal successive
monthly installments, as where payable in irregular or unequal installments either
in amount or periods of the installments or in equal successive monthly installments
followed by or interspersed with an irregular, unequal, or larger installment or
installments, or in other than monthly installments or if the first installment is not
payable one month from the date of the contract and may compute, contract for,
charge, or receive interest charges under any method or formula different from that
prescribed in Section (1) of this Article if the interest charges do not exceed an
amount that, having due regard for the schedule of installment payments, will
provide the same effective return as if the loan were repayable in equal successive
monthly installments beginning one month from the date of the contract.

"(4) Notwithstanding any other provision of this Chapter, a borrower and an
authorized lender [licensee] may enter into a written agreement pursuant to which
one or more loans or advances to or for the account of the borrower may be made
from time to time. The agreement shall contain the date of the agreement and the
name and address of each borrower and of the lender [licensee] and shall be signed
by the parties. A copy of the agreement shall be delivered to the borrower. The
agreement may provide for a maximum loan charge on the unpaid principal
amounts from time to time outstanding not in excess of a rate producing an interest
yield equivalent to that which would be permitted on a similar loan made under
Section (1) of this Article. The Commissioner shall prescribe monthly rates of charge
which produce an interest yield equal to that permitted under Section (1) of this
Article on a loan of the same amount. The loan agreement shall clearly set
forth the insurance coverages afforded the borrower through the lender and, if a charge for
insurance is to be made to the borrower, a simple statement of the amount of such
charge or the method by which it will be calculated.

"(5) On any loan contract which includes precomputed interest and is
payable in substantially equal successive monthly installments. additional interest
for default, if contracted for, may equal but shall not exceed Five Cents for each One
Dollar of any scheduled installment when any portion of such installment continues
unpaid for ten days or more following the date such payment is due, including
Sundays and holidays. Interest for such default shall not be collected more than once
on the same installment. If the payment date of each wholly unpaid installment. on
which no interest for default has been collected is deferred as of an installment date
for one or more full months and the maturity of the contract is extended for a
corresponding period of time, the lender [licensee] may charge and collect
additional interest for such deferment. The interest for such deferment may be equal
to the difference between the refund which would be required for prepayment in
full, as of the date of deferment and the refund which would be required for
prepayment in full as one month prior to such date multiplied by the number of
months in the deferment period as defined below. The portion of the interest
contracted for under Section (1) of this Article applicable to each deferred balance
and installment period following a deferment period shall remain the same as that
applicable to such balance and period under the original contract of loan. If a loan
is prepaid in full during the deferment period defined below, the borrower shall
receive, in addition to the refund required under Section (6) of this Article, a
pro-rata refund of that portion of the interest for deferment applicable to any unexpired full month or months of such period. The deferment period is that period beginning with the day following the due date of the scheduled installment preceding the first installment being deferred, and during which no payment is made or required by reason of such deferment. The interest for default or interest for deferment may be collected at the time of its accrual, or at any time thereafter. On any loan contract which includes precomputed interest but which is not payable in substantially equal successive monthly installments, the loan contract may provide for interest from the maturity date of any installment until paid at a rate not exceeding the highest lawful contract rate.

"(6)(a) When any loan contract which includes precomputed interest and is payable in substantially equal successive monthly installments beginning within one month plus fifteen days after the date of the contract is prepaid in full by cash, a new loan, renewal, or otherwise, or when the lender [licensee] makes demand for payment in full of the unpaid balance, after the first installment due date but before the final installment due date, the lender [licensee] shall refund or credit the borrower with an amount which shall be as great a proportion of the total interest contracted for under Section (1) of this Article as the sum of the periodic balances scheduled to follow the installment date after the date of prepayment in full or demand for payment in full, bears to the sum of all the periodic time balances under the schedule of payments set out in the loan contract. If such prepayment in full or demand for payment in full occurs before the first installment due date the lender [licensee] shall retain for each elapsed day from the date the loan was made, one-thirtieth of the portion of the interest which could be retained if the first installment period were one month and the loan were prepaid in full on the first installment period due date and the interest contracted for under Section (1) of this Article in excess of such amount shall be refunded or credited to the borrower.

"(b) When any loan contract which includes precomputed interest and is payable in other than substantially equal successive monthly installments beginning within one month plus fifteen days after the date the contract is prepaid in full by cash, a new loan, renewal, or otherwise, or when the lender [licensee] makes demand for payment in full of the unpaid balance prior to final maturity, the lender [licensee] may retain earned interest for the period from the date of the loan to the date of prepayment in full or date of demand for payment in full in an amount not to exceed that which would accrue at the simple annual interest rate which the loan contract would have produced over its full term if each scheduled payment had been paid on the date due when applied to the unpaid principal amounts determined to be outstanding from time to time according to the schedule of payments, having due regard for the amount of each scheduled installment and the time of each scheduled installment period. In the event prepayment in full or demand for payment in full occurs on a date during an installment period, the lender [licensee], in addition to interest earnings for the installment period or periods that have elapsed, may retain for each day elapsed from the immediately preceding installment due date to the date of prepayment in full or demand for payment in full an interest charge produced by applying the simple annual interest rate under the contract as hereinafore described to the unpaid principal balance of the loan determined to be outstanding according to the schedule of payments as of the immediately preceding installment due date and dividing that product by three hundred sixty-five. All interest contracted for and precomputed in the amount of loan in excess of the interest authorized to be retained by this Subsection shall be refunded or credited to the borrower.

"The lender [licensee] may also retain earned interest on any additions to principal or other permissible charges added to the loan subsequent to the date of the loan contract, at the simple annual interest rate as described above, from the
date such additions are made until paid or until demand for payment in full of the total unpaid balance under the loan contract is made by the lender [licensee].

"If the loan contract does not contain precomputed interest, then interest may be earned on the principal balance, including additions to principal subsequent to the loan contract, from time to time unpaid, at the rate contracted for, until the date of payment in full or demand for payment in full."

"(7) No authorized lender [licensee] shall induce or permit any person, or husband and wife, to be obligated, directly or indirectly, under more than one loan contract under this chapter at the same time for the purpose, or with the effect, of obtaining a higher authorized charge than would otherwise be permitted by this chapter; but such limitation shall not apply to the acquisition by purchase of bona fide retail installment contracts or revolving charge agreements of the borrower incurred for goods, or services, or to pledged loans made pursuant to Article 3.17, and provided further, if an authorized lender [licensee] purchases all or substantially all the loan contracts of another authorized lender [licensee] hereunder and has at the time of purchase loan contracts with one or more of the borrowers whose loans are purchased, the purchaser shall be entitled to collect principal and authorized charges thereon according to the terms of each loan contract.

"(8) In addition to the authorized charges provided in this chapter no further or other charge or amount whatsoever shall be directly, or indirectly, charged, contracted for, or received. This includes (but is not limited by) all charges such as fees, compensation, bonuses, commissions, brokerage, discounts, expenses and every other charge of any nature whatsoever, whether of the types listed herein or not. Without limitation of the foregoing, such charges may be any form of costs or compensation whether contracted for or not, received by the lender [licensee], or any other person, in connection with (a) the investigating, arranging, negotiation, procuring, guaranteeing, making, servicing, collecting or enforcing of a loan; or (b) for the forbearance of money, credit, goods or things in action; or (c) for any other service or services performed or offered. However, the prohibition set out herein shall not apply to amounts actually incurred by an authorized lender [licensee] as court costs; attorney fees assessed by a court; lawful fees for filing, recording, or releasing in any public office any security for a loan; the reasonable cost actually expended for repossessing, storing, preparing for sale, or selling any security; or fees for noting a lien on or transferring a certificate of title to any motor vehicle offered as security for a loan made under this Chapter, or premiums or identifiable charge received in connection with the sale of insurance authorized under this Chapter."

SECTION 18. Sections (1) and (5), Article 3.16, Title 79, Revised Statutes, as amended (Article 5069-3.16. Vernon's Texas Civil Statutes), are amended to read as follows:

"(1) On a loan made under this section, an authorized lender [licensee] may charge, in lieu of charges specified in Article 3.15, the following amounts:

(a) On any amount up to and including Twenty-nine Dollars and Ninety-nine Cents a charge may be added at the ratio of One Dollar for each Five Dollars advanced to the borrower.

(b) On any cash advance in an amount in excess of Twenty-nine Dollars and Ninety-nine Cents up to and including the amount of Thirty-five Dollars there shall be allowed an acquisition charge for making the advance not in excess of one-tenth of the amount of the cash advance. In addition thereto, an installment account handling charge shall be allowed not to exceed Three Dollars per month.

(c) On any cash advance of an amount in excess of Thirty-five Dollars but not more than Seventy Dollars there shall be allowed an acquisition charge for making the advance not in excess of one-tenth of the amount of the cash advance. In addition thereto, an installment account handling charge shall be allowed not to exceed Three Dollars and Fifty Cents per month.
“(d) On any cash advance of an amount in excess of Seventy Dollars but not in excess of One Hundred Dollars there shall be allowed an acquisition charge for making the advance not in excess of one-tenth of the amount of the cash advance. In addition thereto, an installment account handling charge shall be allowed not to exceed Four Dollars per month.

“(e) On any cash advance in an amount in excess of One Hundred Dollars, the maximum acquisition charge may not exceed Ten Dollars and the maximum monthly installment account handling charge may not exceed the ratio of Four Dollars per month per One Hundred Dollars of cash advance.”

“(5) The Commissioner shall have authority to formulate schedules providing for repayment in weekly, bi-weekly or semi-monthly installments for use by an authorized lender [licensee] on loans made under the authority of this Article provided the ratio of charges permitted under such schedules do not exceed the maximum rates authorized in this Article.”

SECTION 19. Section (3), Article 3.18, Title 79, Revised Statutes, as amended (Article 5069-3.18, Vernon’s Texas Civil Statutes), is amended to read as follows:

“(3) When insurance is required in connection with a loan made under this Chapter, the lender shall furnish the borrower a statement which shall clearly and conspicuously state that insurance is required in connection with the loan, and that the borrower shall have the option of furnishing the required insurance either through existing policies of insurance owned or controlled by him or of procuring and furnishing equivalent insurance coverages through any insurance company authorized to transact business in Texas. In addition when any requested or required insurance is sold or procured by the lender [licensee] at a premium or rate of charge not fixed or approved by the State Board of Insurance, the lender [licensee] shall include such fact in the foregoing statement, and the borrower shall have the option for a period of five days from the date of loan of furnishing the required insurance coverage either through existing policies of insurance owned or controlled by him or of procuring and furnishing equivalent insurance coverage through any insurance company authorized to transact business in Texas. Such statement or statements may be made as separate written statements delivered in conjunction with the loan contract or may be included as a part of the loan contract.”

SECTION 20. Article 3.19, Title 79, Revised Statutes, as amended (Article 5069-3.19, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Article 3.19. LENDER’S [LICENSEE’S] DUTY TO BORROWER. (1) When a loan is made under the authority of this Chapter, the lender [licensee] shall deliver to the borrower, or if more than one to one of them, a copy of the note or agreement and all other documents signed by the borrower and a statement in writing in the English language showing the following information:

“(a) The names and addresses of the borrower and of the lender [licensee]; and

“(b) The types of insurance, if any, for which a charge is included in the loan contract in connection with the loan, and the charge to the borrower for such insurance.

“If the note or loan contract shows the information required above, a copy of such note or loan contract may be delivered rather than a separate statement.

“(2) The lender [licensee] shall give a receipt to the person making a cash payment on any loan.

“(3) At any time during regular business hours, the lender [licensee] shall permit any loan to be prepaid in full, or, if less than a prepayment in full, in an amount equal to one or more full installments.

“(4) When a loan is repaid in full, the lender [licensee] shall cancel and return to the borrower, within a reasonable time, any note, assignment, security agreement,
mortgage, property pledged, or other instrument securing such loan which no longer secures any indebtedness of the borrower to the lender [licensee]."

SECTION 21. Article 3.20, Title 79, Revised Statutes, as amended (Article 5069-3.20, Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 3.20. PROHIBITED PRACTICES. (1) No authorized lender [licensee] shall take an assignment of wages as security for any loan made under this Chapter, but warrants drawn against any state fund, or any claim against a state fund or a state agency, may be assigned as security for any such loan.

(2) No authorized lender [licensee] shall take a lien upon real estate as security for any loan made under this Chapter, except such lien as is created by law upon the recording of an abstract of judgment.

(3) No authorized lender [licensee] shall take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for a borrower in a judicial proceeding. This prohibition shall not apply to powers of attorney contained in insurance premium finance contracts when limited to the authority to cancel casualty insurance financed under such contract.

(4) No authorized lender [licensee] shall take any promise to pay or loan obligation that does not disclose the amount financed and the schedule of payments.

(5) Except as specifically provided in Article 3.15(4) no authorized lender [licensee] shall take any instrument in which blanks are left to be filled in after the loan is made.

(6) No authorized lender [licensee] shall take any instrument whereby a borrower waives any right accruing to him under the provisions of this Chapter.

SECTION 22. Article 3.21, Title 79, Revised Statutes, as amended (Article 5069-3.21, Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 3.21. LIMITATION OF LOAN PERIOD. (1) No authorized lender [licensee] shall enter any contract of loan having a cash advance of Fifteen Hundred Dollars or less under this Chapter, under which the borrower agrees to make any scheduled payment of principal more than thirty-seven calendar months from the date of making such contract.

(2) No authorized lender [licensee] shall enter any contract of loan having a cash advance in excess of Fifteen Hundred Dollars but not in excess of Three Thousand Dollars under this Chapter, under which the borrower agrees to make any scheduled payment of principal more than forty-nine calendar months from the date of making such contract.

(3) An authorized lender [licensee] may not enter into a contract for a loan having a cash advance in excess of Three Thousand Dollars under this Chapter, under which the borrower agrees to make any scheduled payment of principal more than sixty months from the date of making that contract.

SECTION 23. Section 3A, Texas Pawnshop Act (Article 5069-5.03A, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3A. ELIGIBILITY FOR A PAWNSHOP LICENSE. (a) To be eligible for a pawnshop license, an applicant must:

(1) be of good moral character; and

(2) have net assets of at least $75,000 readily available for use in conducting the business of each licensed pawnshop; and

(3) show that the pawnshop will be operated lawfully and fairly within the purposes of this Act.

(b) Despite an applicant's eligibility for a pawnshop license under Subsection (a) of this section, the commissioner, in accordance with Article 6252-13c, Revised Statutes, may find ineligible an applicant whose felony or misdemeanor conviction:"
(1) directly relates to the duties and responsibilities of the occupation of pawnbroker, or
(2) otherwise makes the applicant presently unfit for a pawnshop license.

If an applicant for a pawnshop license is a business entity, the eligibility requirements of Subdivision (1) of Subsection (a) of this section apply to each operator and each legal or beneficial owner, and, as to a corporation, to each officer, shareholder, and director.

SECTION 24. Section 7, Texas Pawnshop Act, as amended (Article 5069-51.07, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 7. REVOCATION, SUSPENSION, SURRENDER, REINSTATEMENT OF LICENSES. (a) The Commissioner may, after notice and hearing, suspend or revoke any license if he finds that:

(1) The licensee has failed to pay any fee or charge properly imposed by the Commissioner under the authority of this Act;
(2) The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this Act or any regulation or order lawfully made pursuant to and within the authority of this Act;
(3) Any fact or condition exists which, if it has existed or had been known to exist at the time of the original application for such license, clearly would have justified the Commissioner in refusing to issue such license;
(4) The licensee has established an association with an unlicensed person who, with the knowledge of the licensee, has acted in violation of this Act;
(5) The licensee has aided, abetted, or conspired with a person to circumvent the requirements of this Act; or
(6) The licensee or a legal or beneficial owner of the licensee is not of good moral character or has been convicted of a crime that the Commissioner finds directly relates to the duties and responsibilities of the occupation of pawnbroker or otherwise makes the applicant presently unfit for a license under Section 3A of this Act [theft, fraud, forgery, or any crime involving moral turpitude].

(b) The Commissioner may place on probation a person whose license has been suspended or reprimand a licensee for a violation of this Act or a rule adopted under this Act.

(c) The manner of giving notice and conducting a hearing as required by Subsection (a) of this section is governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

"(b) The hearing shall be held upon twenty days' notice in writing, setting forth the time and place thereof and a concise statement of the facts alleged to warrant suspension or revocation and its effective date shall be set forth in a written order accompanied by findings of fact and a copy thereof shall be forthwith delivered to the licensee. Said order, findings, and the evidence considered by the Commissioner shall be filed with the public records of the Commissioner.

(d) Any licensee may surrender any license by delivering it to the Commissioner with written notice of its surrender, but such surrender shall not affect the licensee's civil or criminal liability for acts committed prior thereto.

(e) No revocation, suspension, or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any pledgor.

(f) The Commissioner may reinstate suspended licenses or issue new licenses to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the Commissioner in refusing originally to issue such license under this Act.

(g) On application of any person and payment of the cost thereof, the Commissioner shall furnish under his seal and signature a certificate of good standing or a certified copy of any license."
SECTION 25. Section 7A, Texas Pawnshop Act (Article 5069-51.07A, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 7A. EMPLOYEE LICENSE; ELIGIBILITY; APPLICATION. (a) To be eligible for a pawnshop employee license an individual must be of good business repute [and must not have been convicted of or be under indictment for theft, fraud, forgery, or any crime involving moral turpitude].

(b) Despite an applicant’s eligibility for a pawnshop employee license under Subsection (a) of this section, the commissioner, in accordance with Article 6252-13c, Revised Statutes, may find ineligible an applicant whose felony or misdemeanor conviction:

(1) directly relates to the duties and responsibilities of the occupation of pawnshop employee; or

(2) otherwise makes the applicant presently unfit for a pawnshop employee license.

(c) An individual who begins employment at a licensed pawnshop must file an application with the commissioner for a pawnshop employee license within 30 days after the day employment begins. The application must state:

(1) the applicant’s name and address;

(2) the name of the pawnshop at which the applicant is employed;

(3) whether the applicant has been convicted of or is under indictment for theft, fraud, forgery, or any crime involving moral turpitude;

(4) whether the applicant has had a license to engage in any occupation, business, or profession revoked or suspended and the reason for the action;

(5) the business or occupation engaged in by the applicant for five years immediately preceding the date of application; and

(6) other relevant information that the commissioner requires.

(d) The application for an employee license must be accompanied by an investigation and annual fee of $25.

(e) Any individual employed at a licensed pawnshop on October 1, 1981, must file an application accompanied by an investigation and annual fee of $10 with the commissioner before December 1, 1981.”

SECTION 26. Article 3.04, Title 79, Revised Statutes, as amended (Article 5069-3.04, Vernon’s Texas Civil Statutes), is repealed.

SECTION 27. The requirements under Article 2.02A, Title 79, Revised Statutes (Article 5069-2.02A, Vernon’s Texas Civil Statutes), as added by this Act, that the Consumer Credit Commissioner develop an intra-agency career ladder program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of Article 2.02A that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985.

SECTION 28. The eligibility requirements for a pawnshop license or a pawnshop employee license provided by this Act apply to any applicant whose application is pending on the effective date of this Act and to any applicant who submits his application on or after the effective date of this Act.

SECTION 29. Article 1.01, Title 79, Revised Statutes (Article 5069-1.01, Vernon’s Texas Civil Statutes), is amended by adding Sections (g), (h), and (i) to read as follows:

(g) ‘Credit Card Transaction’ means a transaction in which a card is or may be used to debit an open-end account in connection with the purchase or lease of goods or services or the lending of money, which card is or may be used for personal, family, or household use.
“(h) ‘Merchant Discount’ means any charge, fee, discount, compensating balance, or other consideration imposed by a creditor on or received directly or indirectly by the creditor from any seller or lessor of goods or services in connection with a credit card transaction under a lender credit card agreement between the customer and the creditor. The term includes any consideration whatever received by a creditor from any person other than the obligor in connection with a credit card transaction under a lender credit card agreement between the obligor and the creditor. Any such consideration received by a subsidiary of the creditor or parent company of the creditor or any subsidiary of the creditor’s parent company shall be deemed to have been received by the creditor in determining if any such consideration has been received by the creditor.

“(i) ‘Lender Credit Card Agreement’ means an agreement between a creditor (other than the seller or lessor) and an obligor under which credit is or may be extended for personal, family, or household use and under which, (1) by means of a credit card, the obligor may obtain loans from the creditor, which may be advanced by other participating persons, and may lease or purchase goods or services from more than one participating lessor or seller who honor the creditor’s card, and the creditor, or some other person acting in cooperation with the creditor, will reimburse the other participating persons, lessors, or sellers for the goods or services purchased or leased, and the obligor is obligated under his or her agreement with the creditor to pay the creditor the amount of such loans or the costs of such leases or purchases; (2) the unpaid balance of such loans, leases, and purchases and any interest thereon are debited to the obligor’s account with the creditor under the obligor’s agreement with the creditor; (3) interest is not precomputed but may be computed on the balances of the obligor’s account outstanding with the creditor from time to time; and (4) the obligor may defer payment of any part of the balance.

The term includes all agreements for open-end accounts authorized or defined under Articles 3.15(d), 4.01(4), 15.01(k), and 15.01(l) of this Title pursuant to which credit card transactions as defined in Article 1.01(g) of this Title may be made or in connection with which a merchant discount as defined in Article 1.01(h) of this Title is imposed or received by the creditor. The term does not include an open-end account credit agreement between a seller or lessor and its own buyer or lessee. The term does not include agreements under which the entire balance is due and payable in full each month and no interest is charged when the obligor pays in accordance with such terms.”

SECTION 30. Section (b), Article 1.04, Title 79, Revised Statutes (Article 5069-1.04, Vernon’s Texas Civil Statutes), is amended by adding Subsections (4), (5), and (6) to read as follows:

“(4) Any credit agreement described in Section (a), Article 1.11, of this Title is subject to the terms, ceilings, and other provisions of that Article and, except as limited by Article 1.11, to the terms, ceilings, and other provisions of this Article.

“(5) Notwithstanding any other provision of law, on any lender credit card agreement in connection with which a merchant discount as defined in Article 1.01(h) of this Title is imposed or received by the creditor, the creditor may not contract for, charge, or receive, on any amount owed for any credit card transaction, a rate in excess of the ceiling allowed under Article 15.02(d) of this Title (which ceiling shall be adjusted in accordance with Article 15.02(d)) or any other fees or charges which are not authorized under Chapter 15 of this Title or which are in excess of the amounts authorized under Chapter 15.

“(6) Notwithstanding Article 15.10 of this Title, any lender credit card agreement in which the creditor is a bank, savings and loan association, or authorized lender under Chapter 3 of this Title is subject to Chapter 15 of this Title and Article 15.02(d) thereof.”
SECTION 31. Section (d), Article 1.04, Title 79, Revised Statutes (Article 5069-1.04, Vernon’s Texas Civil Statutes), is amended to read as follows:

“(d) The consumer credit commissioner shall compute, on the computation dates of December 1, March 1, June 1, and September 1 of each year, the quarterly and annualized ceilings for the next succeeding calendar quarter beginning January 1, April 1, July 1, and October 1, respectively. For each computation date, the computation under Section (a)(2) of this Article for the quarterly ceiling is the average of all the computations under Section (a)(1) of this Article for auctions occurring during the three calendar months preceding the computation date. For each computation date, the computation under Section (a)(2) of this Article for the annualized ceiling is the average of all the computations under Section (a)(1) of this Article for auctions occurring during the three calendar months preceding the computation date.”

SECTION 32. Chapter 1, Title 79, Revised Statutes (Article 5069-1.01 et seq., Vernon’s Texas Civil Statutes), is amended by adding Article 1.11 to read as follows:

“Article 1.11. LIMITATIONS ON CERTAIN OPEN-END ACCOUNT CREDIT AGREEMENTS. (a) This article applies to any open-end account credit agreement pursuant to which credit card transactions are or may be made in which the creditor relies upon one of the ceilings provided by Article 1.04 of this title and no merchant discount, as defined in Section (h), Article 1.01, of this title, is imposed or received by the creditor in connection with such credit card transactions.

“(b) On any open-end account credit agreement subject to this article, no interest or time price differential may be charged for a billing cycle if the obligor’s payments during such cycle equal or exceed the balance owed under such agreement at the end of the immediately preceding billing cycle or if no balance is owed at the end of such immediately preceding billing cycle.

“(c) Notwithstanding Section (b)(1), Article 1.04, of this title, if a computation under Section (a)(1), (a)(2), (c) or (d), Article 1.04, of this title is more than 21 percent per annum, the ceiling under this article for the amount owed on credit card transactions under an open-end account credit agreement described in Section (a) of this article is 21 percent per annum. Unless otherwise provided in this article, Article 1.04 of this title is applicable to any credit agreement described in Section (a) of this article and to all transactions under such agreement. All duties, obligations, rights, prohibitions, penalties, and enforcement authority applicable to agreements and transactions under Article 1.04 of this title apply to credit agreements and transactions which are subject to this article, except to the extent inconsistent with this article.

“(d) Notwithstanding Section (a) of this article or any other provision of law, a seller or lessor may sell open-end account credit agreements between such seller or lessor and its customers, or any balances thereunder, to a purchaser who purchases a substantial portion of such seller’s or lessor’s open-end account credit agreements, or any balances thereunder, at such terms, conditions, and price as may be agreed, in accordance with Article 6.07 of this title, and any charges, fees, and discounts on such sales and purchases shall not be deemed to be a merchant discount or to disqualify such credit agreements or any balances thereunder from being subject to a ceiling in Article 1.04 of this title as modified by Section (c) of this article or from coverage by this article, or to subject such accounts to the limitations of Article 15.02(d) of this title.”

SECTION 33. Section (c), Article 15.01, Title 79, Revised Statutes (Article 5069-15.01, Vernon’s Texas Civil Statutes), is amended to read as follows:

“(c) ‘Average daily balance’ means the sum of each day’s ending balance in an account during a [the previous] billing cycle (less any interest included in such balance), divided by the number of days in such [the previous] billing cycle. Each day’s ending balance shall begin with the previous day’s ending balance and may
include loans posted to the account on such day, and may also include leases of goods or purchases of goods or services posted to the account on such day, and shall be reduced by credits and payments posted to the account on such day. [Such sum may include purchases and loans posted to the account during the previous billing cycle and such sum shall be reduced by all payments and credits during the previous billing cycle.]

SECTION 34. Section (d), Article 15.02, Title 79, Revised Statutes (Article 5069-15.02, Vernon’s Texas Civil Statutes), is amended to read as follows:

“(d) Notwithstanding Article 1.04 of this Title or any other provision of law, on any open-end account authorized under Articles 3.15(4), 4.01(4), 15.01(k) or 15.01(l) of this Title, pursuant to which credit card transactions as defined in Article 1.01(g) of this Title may be made or in connection with which account a merchant discount as defined in Article 1.01(b) of this Title is imposed or received by the creditor, the rate of interest from time to time in effect on such account is subject to and may not exceed the quarterly ceiling from time to time in effect as computed pursuant to Article 1.04 of this Title and as further limited by this section, and the ceiling on such account is subject to quarterly adjustment, which adjustment shall be made at the option of the creditor either on the quarterly calendar dates set out in Article 1.04(d) of this Title or on the first day of the first billing cycle of an account immediately following said quarterly calendar dates. If a computation of the quarterly ceiling under Article 1.04(a)(2) of this Title is more than 22 percent per annum, the ceiling under this provision shall be 22 percent per annum. If the computation under Article 1.04(a)(2) of this Title is less than 14 percent per annum, the ceiling under this provision shall be 14 percent per annum. Notwithstanding any provision of this Title, a creditor charging a rate limited by this section shall not be required to disclose any decreases which may from time to time occur in the rate on its account [Interest may not accrue upon transactions except for the amount or portion thereof which remains unpaid at the time of the billing cycle immediately following the billing cycle in which the customer was given an initial opportunity to pay for the purchases].”

SECTION 35. Section (e), Article 15.02, Title 79, Revised Statutes (Article 5069-15.02, Vernon’s Texas Civil Statutes), is amended to read as follows:

“(e) Except as provided in Section (d) of this Article, as an alternative to the rates authorized by Section (a) of this Article, the parties may agree to any rate not exceeding a rate authorized by Article 1.04 of this Title [As an alternative to the rates authorized by Section (a) of this Article, the parties may agree to any rate calculated pursuant to Section (d) of this Article not exceeding a rate authorized by Article 1.04 of this Title].”

SECTION 36. Article 15.02, Title 79, Revised Statutes (Article 5069-15.02, Vernon’s Texas Civil Statutes), is amended by adding Section (f) to read as follows:

“(f) No fees shall be charged to or collected from the customer in connection with an account subject to this chapter unless authorized by statute.”

SECTION 37. (a) Except as otherwise provided, this Act takes effect immediately.

(b) Section 5 of this Act takes effect September 1, 1983.

(c) Sections 29-36 of this Act take effect July 1, 1983, contingent on this Act receiving the vote required by Article III, Section 39, of the Constitution of the State of Texas. If this Act does not receive the vote required by Article III, Section 39, of the Constitution of the State of Texas, Sections 29-36 of this Act will take effect September 1, 1983. Provided, that if a creditor bills its customers on a monthly billing cycle and the effective date of those sections does not coincide with the beginning of a monthly billing cycle for some or all of that creditor’s accounts on which credit card transactions can be made, the creditor may, at its option, comply with the law in effect immediately before the effective date of this Act as to each such
account until the first day of the first monthly billing cycle beginning after the effective date of those sections, and the amendments made by Sections 29-36 of this Act take effect as to each such account on the first day of the first monthly billing cycle beginning after the effective date of those sections. The annualized ceilings which took effect during the last two quarters of 1982 and expire during the last two quarters of 1983 and the annualized ceilings which took effect in the first two quarters of 1983 and expire in the first two quarters of 1984 shall, as of the date Sections 29-36 of this Act take effect as to an account, be deemed to equal 18 percent a year on such account, until such expiration dates, and the Consumer Credit Commissioner shall publish such revision in The Credit Code Letter within two weeks from the date this Act takes effect and in the Texas Register as soon as possible. For purposes of Section (d), Article 15.02, of Title 79 as hereby amended, the quarterly ceiling applicable under that article shall be recomputed in accordance with Section 34 of this Act and, as so recomputed, takes effect on the effective date of that section as to an account, and the Consumer Credit Commissioner shall publish the recomputed quarterly ceiling applicable under Section (d), Article 15.02, of Title 79 in The Credit Code Letter within two weeks from the date such section takes effect and in the Texas Register as soon as possible. Notwithstanding the foregoing, a credit card transaction occurring before the effective date of Sections 29-36 of this Act as to the account under which it is made is governed by the law in effect immediately before the amendments made by those sections, and that law is continued in effect for that purpose. Any credit card transaction occurring on or after the effective date of Sections 29-36 of this Act as to the account under which it is made is governed by the law as amended by those sections and by this section.

SECTION 38. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSSB 405 was read second time.

Representative Coody offered the following amendment to CSSB 405:

Amend CSSB 405, on page 42, line 3, by inserting between "account" and the comma, "under which a credit card transaction may be made".

The amendment was adopted without objection.

Representative Blanton offered the following amendment to CSSB 405:

Amend Section 36 of CSSB 405 by adding a new Section 15.02 (g), to read as follows:

(g) On any open-end account credit agreement pursuant to which credit card transactions are or may be made and which open-end account agreement is subject to this article, no interest may be charged for a billing cycle for amounts owed for retail purchases of goods or services if the obligor's payments during such cycle equal or exceed the balance owed under such agreement at the end of the immediately preceding billing cycle or if no balance is owed at the end of such immediately preceding billing cycle. This Section applies only to credit card transactions for personal, family or household purposes.

Representative Coody moved to table the Blanton amendment.

The motion to table prevailed. (Schlueter recorded voting no)

Representative Ragsdale offered the following amendment to CSSB 405:
Amend CSSB 405, SECTION 6, page 9, by amending Subsection (4) to read as follows:

(4) ... the words and figures “Twenty Million Dollars ($20,000,000)” wherever such words appear in Section 2 of Article 4 of the
Texas Banking Code of 1943, and inserting in lieu thereof the following words and figures:

“One Hundred Million Dollars ($100,000,000)”

The amendment was adopted without objection.

**SB 295**, as amended, was passed to third reading.

**RULES SUSPENDED**

Representative Craddick moved to suspend the 5-day posting rule to allow the Committee on Natural Resources to consider **HB 2416, HB 2417, HB 2418, HB 2419, HB 2420, HB 2421, and HB 2422**.

The motion prevailed without objection.

**HB 973 - RULES SUSPENDED**

Representative Haley moved to suspend the 5-day posting rule to allow the Committee on Public Education to consider **HB 973**.

The motion prevailed without objection.

**RULES SUSPENDED**

Representative Tejeda moved to suspend the 5-day posting rule to allow the Committee on Judicial Affairs to consider **SB 1282, SB 1044, HB 2294, HB 1080, SB 1291, and HB 2340**.

The motion prevailed without objection.

**SB 179 - RULES SUSPENDED**

Representative Presnal moved to suspend all necessary rules to allow the Conference Committee on **SB 179** to meet while the house is in session beginning tomorrow.

The motion prevailed without objection.

**SB 471, HB 2431, AND HB 2412 - RULES SUSPENDED**

Representative G. Thompson moved to suspend the 5-day posting rule to allow the Committee on County Affairs to consider **SB 471, HB 2431, and HB 2412**.

The motion prevailed without objection.

**SB 563 - RULES SUSPENDED**

Representative L. Evans moved to suspend the 5-day posting rule to allow the Committee on Criminal Jurisprudence to consider **SB 563**.

The motion prevailed without objection.

**COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

- House Ethics Committee, 8 p.m. today, Room 346, Capitol.
- Local and Consent, on adjournment today, Room G-14, Capitol.
- Local and Consent, 8 a.m. tomorrow, Room G-14, Capitol.
- Public Health, on noon recess tomorrow, Room 410, Reagan Building, to consider **SB 1019**.
- Business and Commerce, Subcommittee on **HB 958**, on adjournment today, Desk 98, to consider **HB 958**.
Business and Commerce, Subcommittee on **HB 494**, on adjournment today, Desk 145, to consider **HB 494**.

Business and Commerce, Subcommittee on **HB 1853**, on adjournment today, Desk 90, to consider **HB 1853**.

Business and Commerce, Subcommittee on **HB 1959**, on adjournment today, Desk 90, to consider **HB 1959**.

Business and Commerce, Subcommittee on Workers Compensation, on adjournment today, Desk 90, to consider **SB 291** and **SB 311**.

Criminal Jurisprudence, Subcommittee on **HB 964**, on adjournment today, Old Supreme Court room, to consider **HB 964**.

Criminal Jurisprudence, Subcommittee on **HB 745**, on adjournment today, Old Supreme Court room, to consider **HB 745**.

Law Enforcement, Subcommittee on **HB 1900**, on adjournment today, Desk 42, to consider **HB 1900**.

Retirement and Aging, Subcommittee on **HB 2288**, on adjournment today, Desk 142, to consider **HB 2288**.

State Affairs, Subcommittee on **HB 614**, five minutes after adjournment today, Room 100-B, Reagan Building, to consider **HB 614**.

State Affairs, Subcommittee on **HB 394**, five minutes after adjournment today, Room 100-B, Reagan Building, to consider **HB 394**.

State Affairs, Subcommittee on **HB 1171**, 5 minutes past adjournment today, Room 100-B, Reagan Building, to consider **HB 1171**.

Ways and Means, Subcommittee on Revenue, on adjournment today, Room 109-D, Capitol, to consider **HB 289**.

Ways and Means, Subcommittee on **HB 1548**, on adjournment today, Desk 82, to consider **HB 1548**.

Transportation, Subcommittee on **SB 24**, 9:30 a.m. tomorrow, speakers committee room, to consider **SB 24**.

Judicial Affairs, Subcommittee on **HB 1927**, 9:30 a.m. tomorrow, Room 416-C, Capitol, to consider **HB 1927**.

Insurance, Subcommittee on Property and Casualty, 10 minutes before convening Tuesday, Desk 18, to consider **HB 564**.

Public Education, Subcommittee on **HB 739**, on adjournment today, Desk 26, to consider **HB 739**.


**HOUSE BILL ON FIRST READING**

The following house bill was today laid before the house, read first time and referred to committee:
By A. Garcia:
HB 2433, A bill to be entitled An Act relating to the civil jurisdiction of the County Court at Law of Hidalgo County and the County Court at Law No. 2 of Hidalgo County.
To Committee on Judicial Affairs.

RESOLUTIONS REFERRED TO COMMITTEES

The following resolutions were laid before the house and referred to committees:

SCR 99, Congratulating the City of San Antonio.
To Committee on Rules and Resolutions.

SCR 101, Granting permission to the Second Annual Young Leadership Workshop to use the Senate and House Chambers Thursday, August 18 through Saturday, August 20, 1983.
To Committee on House Administration.

ADJOURNMENT

Representative Polk moved that the house adjourn until 10 a.m. tomorrow in memory of Rosa Alma Allen.
The motion prevailed without objection.
The house accordingly, at 7:59 p.m., adjourned until 10 a.m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

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

Agriculture and Livestock - HB 2400, SB 1222
Appropriations - SB 1298
Business and Commerce - HB 2375, SB 642

County Affairs - HB 870, HB 1118, HB 1481, HB 2204, HB 2335, HB 2365, HB 2367, HB 2371, HB 2372

Criminal Jurisprudence - HB 765, HB 1191, HB 1196, HB 1771, HB 1947, SB 557
Cultural and Historical Resources - SB 682, SCR 6
Energy - SB 1140
Higher Education - SB 764
Human Services - HB 1274, HB 1616, HB 1649
Insurance - HB 1575
Judicial Affairs - HB 1285, HB 1630

Law Enforcement - HB 742, HB 956, HB 1061, HB 1108, HB 1109, HB 1302, HB 1981, HB 2398, SB 389, SB 417, SB 622, SB 624, SB 779, SB 786

Natural Resources - HB 2427
Public Health - HB 1685, SB 385
Retirement and Aging - HB 1726, HCR 177, SB 280, SB 973, SB 1198, SCR 96
Transportation - HB 306, HB 979, HB 1966, HB 1980, SB 802, SB 1141

SENT TO THE GOVERNOR

May 9 - HCR 131, HCR 151, HCR 157, HCR 172, HCR 175, HCR 176, HCR 179

COAUTHORS AUTHORIZED

The following members were granted permission by the authors to sign a bill and a resolution as coauthors:

HB 2085 - Stiles