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

The roll of the house was called and a quorum was announced present (Record 336).

Present — Mr. Speaker; Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Coverha; Clark; Clemons; Colbert; Collazo; Connelly; Coody; Craddick; Criss; Crockett; Danburg; Davis; De Lay; 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; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hellin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kueempel; Lanej; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patrenella; Patterson; Pennington; Peveo; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

The invocation was offered by Tom Merritt, pastor, First Baptist Church, Keller, Texas, as follows:

Dear God, Gratitude overflows our hearts because you have permitted us to live in this nation and in the State of Texas during this hour of history. Never has a people been so blessed with resources and opportunities to exalt thee. Help us to be faithful.

We are grateful that you ordained the institution of government, and in an age when authority is being flaunted, and there is rebellion against authority, help us to recall and make known to others the words of the Apostle Paul when he wrote, "The powers that be are ordained of God. Whoever, therefore, resists this power, resists God."

In that same spirit, we would invoke your blessing upon and presence among these honorable men who have been elected to serve you, O God, and the citizens of this state. As they consider affairs of state, grant, O God, that they shall look beyond their wishes and the influence of those who would use them, even beyond the desires of the people, and above all, let them seek to do your will.

For your perspective of history, O God, is the perfect view. Grant that this day shall be alive with the spirit of your presence. Amen.

HCR 240 - ADOPTED

Representative Geistweidt moved that all necessary rules be suspended to take up and consider at this time, HCR 240.
The motion prevailed without objection.
The speaker laid before the house the following resolution:
By Geistweidt, et al.:
HCR 240, Commending Gene Zesch.
The resolution was adopted with objection.

INTRODUCTION OF GENE ZESCH
Speaker Lewis recognized Representative Geistweidt who introduced Gene Zesch to the house.
Mr. Zesch presented a poster to Speaker Lewis.
Speaker Lewis introduced Mrs. Patsy Zesch to the house and presented a gavel to Mr. Zesch.

SCR 96 - ADOPTED
(E. Barton - House Sponsor)
Representative E. Barton moved that all necessary rules be suspended to take up and consider at this time, SCR 96.
The motion prevailed without objection.
The speaker laid before the house the following resolution:
SCR 96, Declaring May 8-14, 1983, as "Senior Citizens Centers Week."
The resolution was adopted without objection.

SENATE BILLS ON FIRST READING
The following senate bills were today laid before the house, read first time and referred to committees:
SB 1362 to Committee on Public Health.
SB 1321 to Committee on Business and Commerce.
SB 1091 to Committee on Financial Institutions.
SB 982 to Committee on Ways and Means.
SB 1066 to Committee on Law Enforcement.
SB 198 to Committee on Ways and Means.
SB 378 to Committee on Natural Resources.
SB 477 to Committee on State Affairs.
SB 771 to Committee on State Affairs.
SB 813 to Committee on State Affairs.
SB 900 to Committee on Higher Education.

RESOLUTION REFERRED TO COMMITTEE
The following resolution was laid before the house and referred to committee:
SCR 103, Congratulating participants of the Second Annual Texas Senior Games.
To Committee on Retirement and Aging.
BILL SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bill:

HB 164

HB 2434 - PERMISSION TO INTRODUCE

Representative A. Moreno moved to suspend the constitutional rule for permission to introduce and have placed on first reading HB 2434.

The motion prevailed by (Record 337): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bommer; Buchanan; Burnett; Cain; Carriker; Cary; Cavazos; Ceverha; Clark; Clemens; Colbert; Collazo; Connelly; Coody; Craddick; Crockett; Danburg; Davis; Delay; Delco; Denton; Eckels; Edwards; Eikenburg; Emmeitt; English; Evans, C.; Evans, L.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweit; Gibson, B.; Gibson, J.; Gilley; Grossbrenner; Granoff; Green; Grisham; Hackney; Hale; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Hudson, D.; Hudson, S.; Hury; Jackson; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patrick; Patroneila; Patterson; Pennington; Pierce; Polk; Polumbo; Pressial; Price; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Sunnawatt; Stiles; Sutton; Tejeda; Thompson, S.; Toomey; Tow; Turner; Uber; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

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

Absent — Agnich; Armbister; Bush; Criss; Horn; Jones; Mankins; Parker; Peveto; Thompson, G.

HR 326 - ADOPTED

Representative Finnell moved that all necessary rules be suspended to take up and consider at this time, HR 326.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Finnell:

HR 326, Opposing the enactment of any federal law which would regulate the administration of state and local retirement systems and plans.

The resolution was adopted without objection.

HR 327 - ADOPTED

Representative Finnell moved that all necessary rules be suspended to take up and consider at this time, HR 327.

The motion prevailed without objection.

The speaker laid before the house the following resolution:
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.

The resolution was adopted without objection.

HR 340 - ADOPTED

Representative Finnell moved that all necessary rules be suspended to take up and consider at this time, HR 340.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Finnell:

HR 340, Recognizing the Holliday Chamber of Commerce and the city of Holliday.

The resolution was adopted without objection.

HB 1954 ON THIRD READING

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

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 third time and was passed.

HB 1748 ON THIRD READING

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

HB 1748, A bill to be entitled An Act relating 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.

The bill was read third time and was passed.

HB 838 ON THIRD READING

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

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 third time and was passed.

HB 283 ON THIRD READING

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

HB 283, A bill to be entitled An Act relating to the possession and delivery of certain volatile chemicals; providing penalties.

The bill was read third time and was passed.
HB 1125 ON THIRD READING

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

HB 1125, A bill to be entitled An Act relating to the creation, operation, and dissolution of enterprise zones.

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

HB 25 ON THIRD READING

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

HB 25, A bill to be entitled An Act relating to age requirements for applicants for beginning positions within police departments covered by Chapter 325, Acts of the 50th Legislature, 1947 (Article 1269m, Vernon's Texas Civil Statutes), as amended.

A record vote was requested.

The bill was read third time and was passed by (Record 338): 140 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomar; Buchanan; Burnett; Bush; Cain; Carricker; Cary; Cavazos; Ceverha; Clemens; Colbert; Collazo; Connelly; Coody; Craddick; Crockett; Davis; Delay; Delco; Denton; Eckels; Edwards; Eikenburg; English; Evans, C.; Evans, L.; Fennell; Fox; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweitl; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hellin; Hernandez; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hurry; Jackson; Jones; Keller; Kemp; Khourey; Kubiak; Kuempel; Lane; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patrick; Patronella; Patterson; Pennington; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robinson; Rudd; Russell; Salinas; Saunders; Schlueter; Scholecraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Stanissiwale; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uhler; Valles; Vowell; Waldrop; Wallace; Watson; Whaley; Wieing; Willis; Wilson; Wolens; Word; Wright.

Nay — Danburg.

Present, not voting — Mr. Speaker(C).

Absent — Clark; Criss; Emmett; Gamez; Hightower; Parker; Peveto; Robnett.

HB 280 ON THIRD READING

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

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

The bill was read third time and was passed.

HB 1091 ON THIRD READING

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

HB 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.
A record vote was requested.

The bill was read third time and was passed by (Record 339): 134 Yeas, 0 Nays, 1 Present, not voting.

Yea — Agrich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carrker; Cary; Cavazos; Cervera; Clarke; Clemens; Colborn; Collazo; Connelly; Coody; Craddick; Criss; Crockett; Danburg; Davis; Deleo; Denton; Eckels; Edwards; Eikenburg; English; Evans, C.; Evans, L.; Finnell; Fox; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Hall, T.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hellin; Hernandez; Highower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Keller; Kemp; Khoury; Kubiak; Kuempel; Lane; Lee, D.; Lee, E. F.; Leonard; McKenna; McWilliams; Madla; Martinez, R.; Martinez, W.; Meser; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Rudd; Russell; Salinas; Saunders; Schluter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Valles; Vowell; Waldrop; Wallace; Watson; Wieting; Willis; Wilson; Wolens; Word; Wright.

Present, not voting — Mr. Speaker(C).

Absent — DeLay; Emmett; Gamez; Gibson, J.; Haley; Hall, L.; Hall, W.; Jones; Luna; Mankins; Parker; Robinson; Robnett; Uher; Whaley.

HB 529 ON THIRD READING

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

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 third time and was passed. (Danburg, Barrientos, Ragsdale, and Delco recorded voting no)

HB 1563 ON THIRD READING

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

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

The bill was read third time and was passed.

HB 867 ON THIRD READING

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

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 third time and was passed.

HB 2005 ON THIRD READING

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

HB 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.
The bill was read third time and was passed.

HB 2154 ON THIRD READING
The speaker laid before the house on its third reading and final passage,

HB 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.

The bill was read third time and was passed.

HB 1054 ON THIRD READING
The speaker laid before the house on its third reading and final passage,

HB 1054, A bill to be entitled An Act relating to the regulation of credit unions; providing penalties.

The bill was read third time.

Representative Messer offered the following amendment to the bill:

Amend HB 1054 as follows:

(1) On page 74, strike lines 14 through 20 and substitute the following: “provided by Subsection (c), Section 11.07, of this Act. All sums of money paid to the 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 Credit Union 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 Department shall be paid only from this Credit Union Department Expense Fund. Not later than June 1 of each even-numbered year, the Commissioner shall submit to the Commission a proposed budget for operation of the 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 Credit Union 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 Department Budget approved by the Commission and by the Legislature in the General Appropriations Act or other applicable statutes as provided by this Act.”

(2) Strike Section 59 of the bill as amended and substitute the following: SECTION 59. (a) Except as provided by Subsection (b) of this Section this Act takes effect September 1, 1983.

(b) Section 54 of this Act takes effect September 1, 1985, except that for purposes of preparation by the Commissioner of a proposed budget for the 1985-1987 state fiscal biennium and action on that proposed budget by the Commission, Section 54 takes effect January 1, 1984. All funds in the custody of the Department that are subject to Subsection (c) of Section 11.10 of this Act (Article 2461-11.10 (c), 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 Credit Union Department Expense Fund.

The amendment was adopted without objection.

HB 1054, as amended, was passed.
HB 210 ON THIRD READING

The speaker laid before the house on its third reading and final passage, HB 210, A bill to be entitled An Act relating to the designation and service of certain public school officials as deputy voter registrars.

The bill was read third time.

Representative Ragsdale offered the following amendment to the bill:

Amend HB 210, SECTION 1, adding the following language to proposed Subdivision 6:

(d) The Secretary of State shall issue the instructions necessary to implement this Act.

The amendment was adopted without objection.

HB 210, as amended, was passed. (Fox, Craddick, and Hanna recorded voting no)

HB 1778 ON THIRD READING

The speaker laid before the house on its third reading and final passage, HB 1778, A bill to be entitled An Act relating to fees for motor vehicle dealers and providing for bonds for certain motor vehicle dealers.

The bill was read third time and was passed.

HB 100 ON THIRD READING

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

The bill was read third time and was passed.

HB 2092 ON THIRD READING

The speaker laid before the house on its third reading and final passage, HB 2092, A bill to be entitled An Act relating to the sale of urban renewal land.

A record vote was requested.

The bill was read third time and was passed by (Record 340): 143 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent — Barton, B.; Collazo; Edwards; Gamez; Moreno, P.; Ragsdale.

HB 2251 ON THIRD READING

The speaker laid before the house on its third reading and final passage, HB 2251, A bill to be entitled An Act relating to the creation of a state job-training program.

The bill was read third time and was passed. (Fox, Rudd, P. Hill, Schoolcraft, Pierce, Pennington, and A. Smith recorded voting no)

HB 845 ON THIRD READING

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

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

HB 2083 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, HB 2083, A bill to be entitled An Act relating to deferred suspension of certain licenses issued by the Department of Agriculture.

The bill was read second time.

Representative Saunders offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend HB 2083 as follows:

(1) On page 1, line 16, strike the word "The", and substitute "Except for licenses issued under Chapters 75 and 76, the".

(2) On page 1, line 18, before the word "If", add "For licenses issued under Chapters 75 and 76, the amount of a civil penalty imposed under this section may not be less than $25 per day nor more than $50 per day for each day that the license would be suspended."

Committee Amendment No. 1 was adopted without objection.

HB 2083, as amended, was passed to engrossment.

HB 590 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, HB 590, A bill to be entitled An Act relating to the order in which a school district adopts its budget and sets a tax rate.

The bill was read second time and was passed to engrossment.
HB 1985 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1985.

CSHB 1985

A BILL TO BE ENTITLED
AN ACT
relating to the establishment, powers, and duties of the Texas Planning Council for Developmental Disabilities and to the rights of persons with developmental disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Title 7, Human Resources Code, is amended by adding Chapter 112 to read as follows:

CHAPTER 112. DEVELOPMENTAL DISABILITIES
SUBCHAPTER A. GENERAL PROVISIONS
Sec. 112.001. DEFINITIONS.
In this chapter:
(2) “Administering agency” means the executive agency designated by the governor to administer appropriations under the developmental disabilities program established by this chapter and federal law.
(3) “Developmental disability” means a severe, chronic disability that:
(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;
(B) is manifested before the person attains age 22;
(C) is likely to continue indefinitely;
(D) results in substantial functional limitations in three or more of the following areas of major life activity:
(i) self-care;
(ii) receptive and expressive language;
(iii) learning;
(iv) mobility;
(v) self-direction;
(vi) capacity for independent living; or
(vii) economic sufficiency; and
(E) reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration, and are individually planned and coordinated.

Sec. 112.002. PURPOSE. The purpose of this chapter is to establish a developmental disabilities program that:
(1) promotes a system of effective and efficient services for persons with developmental disabilities that plans, coordinates, monitors, tests, and evaluates those services;
(2) assists the state in assuring that persons with developmental disabilities receive the care, treatment, and services necessary to enable them to achieve their maximum potential; and
(3) assures compliance with the Developmental Disabilities Services and Facilities Construction Act (Pub.L. No. 91-517), the Developmentally Disabled Assistance and Bill of Rights Act (Pub.L. No. 94-103), and the Developmental Disabilities Assistance and Bill of Rights Act (Pub.L. No. 97-35), and all amendments to those Acts, as long as those Acts are effective.
SUBCHAPTER B. TEXAS PLANNING COUNCIL FOR DEVELOPMENTAL DISABILITIES

Sec. 112.011. ESTABLISHMENT. The Texas Planning Council for Developmental Disabilities is established.

Sec. 112.012. MEMBERS. (a) The council is composed of 25 members, each of whom must be a Texas resident.

(b) The commissioner or executive director of each of the following agencies serves as an ex officio member of the council, and from time to time may designate an employee from the commissioner’s or executive director’s agency to represent him on the council:

1. the Texas Department of Mental Health and Mental Retardation;
2. the Texas Department of Human Resources;
3. the Texas Department of Health;
4. the Central Education Agency;
5. the Texas Rehabilitation Commission;
6. the State Commission for the Blind; and
7. the Texas School for the Deaf.

(c) The governor shall appoint the following members to serve on the council:

1. a representative from a higher education training facility;
2. a representative from an agency of local government;
3. a representative from a nongovernmental agency concerned with services to the handicapped; and
4. a representative from a citizen group concerned with services to the handicapped.

(d) The governor shall appoint 14 consumer members to serve on the council. At least five of the consumer members must be persons with developmental disabilities, five must be parents or guardians of a person with a mentally impairing developmental disability, and one must be the parent or guardian of a person with developmental disabilities who is living in an institution. The remaining consumer members may be parents or guardians of persons with developmental disabilities, may be appointed from one of the above categories, or may be other interested persons.

(e) A consumer member may not be:

1. an employee of a state agency that receives funds under the developmental disabilities program established by this chapter and federal law;
2. a managing employee of any other entity that receives funds under the developmental disabilities program; or
3. a person with an ownership or control interest in an entity that receives funds under the developmental disabilities program.

Sec. 112.013. TERMS. (a) Members of the council appointed by the governor serve for staggered terms of six years with the term of one-third of the members expiring on February 1 of each odd-numbered year.

(b) A person may not serve on the council more than two consecutive six-year terms.

Sec. 112.014. VACANCIES. (a) A position on the council becomes vacant if:

1. a member resigns from the council by providing written notice to the chair;
2. a member ceases to be a resident of this state; or
3. a member misses three consecutive regular or special council meetings.
(b) If a position on the council becomes vacant, the chair shall provide written notice to the governor, agency commissioner, or executive director, as appropriate, requesting a new appointment to fill the remainder of the member's term.

Sec. 112.015. EXPENSES. (a) Council members appointed under Section 112.012(c) or (d) of this code serve without salary but are entitled to reimbursement for actual expenses incurred in performing their duties, including travel, meals, lodging, and telephone long-distance charges.

(b) Members of the council who are disabled and who, because of the disability, require special aids or travel companions are entitled to reimbursement for those costs.

Sec. 112.016. OFFICERS. (a) At the regular meeting in March, members of the council shall elect a chair and a vice-chair to serve terms of one year beginning immediately on election.

(b) A council member may not serve in any one office more than two consecutive terms.

(c) A representative of a state agency may not serve as chair or vice-chair.

Sec. 112.017. BYLAWS. The council may adopt bylaws or policies consistent with this chapter and applicable state or federal law. The bylaws or policies may include duties of officers, process for nominations or vacancies for officers, duties of committees, quorum requirements for committees, provisions for special or ad hoc committees, and policies for council staff.

Sec. 112.018. ADMINISTERING AGENCY. (a) The governor shall designate, by executive order, a state agency to receive and administer federal and state funds appropriated for the developmental disabilities program established by this chapter and federal law.

(b) The administering agency shall receive, deposit, and disburse funds for the developmental disabilities program in accordance with this chapter, applicable federal law, and the purposes and priorities established by the council in the state plan developed under Section 112.019 of this code.

(c) The administering agency shall make the final decision regarding the award of grants under this chapter and shall provide for fiscal control and fund-accounting procedures necessary to assure the proper disbursement of and accounting for grant funds.

(d) The administering agency shall provide staff to be assigned to assist the council. The administering agency shall, within the limitations of appropriations, set aside funds necessary to adequately staff the council so that the council may perform its duties.

(e) The administering agency shall negotiate a written management agreement with the council that must be approved by the council and by the governing board of the administering agency. The council and the administering agency shall review the management agreement annually. The management agreement must:

(1) identify the number and positions of staff to be assigned to the council;

(2) specify that the executive director of the developmental disabilities program is responsible to the council and that the staff is responsible to the executive director; and

(3) comply with this chapter.

Sec. 112.019. STATE PLAN FOR DEVELOPMENTAL DISABILITIES. (a) The council shall develop the state plan for persons with developmental disabilities. The plan must:

(1) specify programs, services, and resources available to assist developmentally disabled persons;
(2) describe the allocation of funds available to assist developmentally disabled persons;

(3) specify objectives relating to developmentally disabled persons to be attained under the state plan; and

(4) include any other provision required by the council and applicable state or federal law.

(b) At least annually, the council shall review and evaluate the implementation of the state plan and submit modifications to the state plan as necessary.

(c) In reviewing and evaluating implementation of the state plan, the council shall:

(1) analyze state services systems with respect to services for developmentally disabled persons and analyze public and private programs that are currently or potentially capable of providing services to developmentally disabled persons;

(2) assess the needs and problems of developmentally disabled persons;

(3) identify gaps and barriers within the service delivery system;

(4) establish priorities, goals, and measurable objectives for formulating the state plan, for allocating developmental disabilities funds, and for operating the developmental disabilities program;

(5) review and comment on all state plans in Texas that relate to programs affecting developmentally disabled persons; and

(6) review and comment on laws, policies, procedures, and practices relating to the rights of and services to developmentally disabled persons.

Sec. 112.020. ADDITIONAL COUNCIL POWERS AND DUTIES. The council shall establish a developmental disabilities program. In administering that program, the council shall:

(1) engage in and support activities that coordinate and strengthen services for developmentally disabled persons, and that safeguard the rights of persons who are faced with developmental disabilities;

(2) foster cooperation and communication among state, county, municipal, voluntary, and private agencies providing services to developmentally disabled persons to assure that the services are delivered effectively, economically, and without duplication;

(3) promote public awareness of the needs and problems of developmentally disabled persons;

(4) cooperate with and support consumers and consumer organizations that advocate the rights of developmentally disabled persons and the delivery of effective services to developmentally disabled persons;

(5) promote the establishment of community-based programs, especially model service delivery and service coordination programs, that hold promise of expanding or otherwise improving services to developmentally disabled persons;

(6) encourage and support training programs to prepare professionals and paraprofessionals to work effectively with developmentally disabled persons;

(7) encourage and support pertinent research efforts and preventive measures relating to developmentally disabled persons;

(8) provide technical assistance where appropriate to achieve effective implementation of the state plan;

(9) develop, with the administering agency, applications for special project grants and submit comments on the applications to the governor, the United States Secretary of Health and Human Services, and appropriate state agencies;
(10) negotiate a management agreement with the administering agency to assure that the council is adequately staffed to perform its duties;
(11) undertake at the request of the governor and the legislature activities appropriate to the achievement of legislative and executive functions relating to persons with developmental disabilities or other handicapping conditions;
(12) submit to the governor, legislature, and other appropriate state and federal authorities periodic reports on the council's responsibilities and performance; and
(13) assure that the State of Texas is in compliance with the Developmental Disabilities Services and Facilities Construction Act (Pub.L. No. 91-517), the Developmentally Disabled Assistance and Bill of Rights Act (Pub.L. No. 94-103), and the Developmental Disabilities Assistance and Bill of Rights Act (Pub.L. No. 97-35), and all amendments to those Acts, as long as those Acts are effective.

[Sections 112.021-112.030 reserved for expansion]

SUBCHAPTER C. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES

Sec. 112.031. LEGISLATIVE FINDINGS. (a) The legislature finds that persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for their disabilities within the funds available for those purposes.
(b) The legislature further finds that the treatment, services, and habilitation for a person with developmental disabilities must be designed to maximize the developmental potential of the person and must be provided in the setting that is least restrictive of the person's personal liberty.

Sec. 112.032. RIGHTS OF DEVELOPMENTALLY DISABLED PERSONS. (a) Public or private agencies serving developmentally disabled persons must have policies to assure that funds made available under this chapter are not provided to an institution or residential facility that does not comply with this section.
(b) An institution or residential facility for developmentally disabled persons must:
(1) provide treatment, services, and habilitation appropriate to the needs of developmentally disabled persons served by the institution or residential facility;
(2) provide a nourishing, well-balanced, daily diet to developmentally disabled persons being served by the institution or residential facility;
(3) provide developmentally disabled persons with appropriate and sufficient medical and dental services;
(4) prohibit the use of physical restraint on developmentally disabled persons unless absolutely necessary and prohibit the use of physical restraint as a punishment or as a substitute for a habilitation program;
(5) prohibit the excessive use of chemical restraints on developmentally disabled persons and prohibit the use of chemical restraints as punishment, as a substitute for a habilitation program, or in quantities that interfere with services, treatment, or habilitation for developmentally disabled persons;
(6) permit close relatives and friends of developmentally disabled persons to visit them at reasonable hours without prior notice; and
(7) comply with applicable fire and safety standards.
(c) The rights provided by this section for persons with developmental disabilities are in addition to any constitutional or other rights afforded to all persons.
SECTION 2. (a) Except as otherwise provided by this section, a person who is a member of the Texas Planning Council for Developmental Disabilities on the effective date of this Act is entitled to serve on the council until February 1 of the year in which that person's term expires.

(b) In order to satisfy constitutional requirements concerning terms of office, the governor shall make the appointments to the council in accordance with this section.

(c) To fill the positions of members whose terms expire in 1983, the governor shall appoint two persons for terms expiring February 1, 1989. Also, the governor shall appoint an additional person to serve on the council for a term expiring February 1, 1989, who is the parent or guardian of a person with developmental disabilities who is living in an institution.

(d) A member of the council on the effective date of this Act whose term is scheduled to expire in 1986 serves only until February 1, 1985. On February 1, 1985, the 12 positions on the council expiring on that date are reduced to 11 positions. To fill the positions of members whose terms expire on that date, the governor shall appoint two persons for terms expiring on February 1, 1987, three persons for terms expiring February 1, 1989, and six persons for terms expiring February 1, 1991.

(e) To fill the positions of members whose terms expire in 1987, the governor shall appoint six persons for terms expiring February 1, 1993.

(f) Successors to members whose terms expire in 1989, 1991, and 1993 are appointed to full six-year terms.

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 1985 was read second time and was passed to engrossment.

HB 33 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 33.

CSHB 33

A BILL TO BE ENTITLED
AN ACT

relating to electronic filing, storing and dissemination of documents in the courts.

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

SECTION 1. ELECTRONIC FILING OF DOCUMENTS. (a) Defined as “data” transmitted to a District or County Clerk by the communication of information, displayed originally in written form, to digital electronic signals transformed by computer and stored either on microfilm, magnetic tape, optical disks or any other medium if the District or County has established a system for receiving electronically transmitted information from an electronic copying device, and the system has been approved by the Supreme Court.

(b) The place of filing is the receiving station designated by the District or County Clerk to which the information may be transmitted.

(c) The following must occur to complete an electronic filing:

1. a party desiring to file an instrument with the District Clerk shall transmit the instrument electronically;

2. the receiving station shall transmit acknowledgment by encoding electronic receipt of the transmission back to the sending party;
(3) the sending station shall encode validation of the encoded receipt as correct;

(4) the receiving station shall respond by encoded transcription into the computer system that validation has occurred, and that the electronic transmission has been completed, which shall constitute completion of the filing.

d) The receiving station, upon completion of filing, shall transmit data as required to the appropriate court or other distribution as required by statute or rule from or through the medium of direct computer transmission, microfilm, magnetic tape or optical disks, or any other medium approved by the Supreme Court.

SECTION 2. TRANSMISSION AND RECEIPT OF REPORTS, WRITS, CITATIONS, SUBPOENAS, RETURNS AND OTHER DOCUMENTS GENERATED AND RECEIVED BETWEEN THE JUSTICE AGENCIES AND OTHER INDIVIDUALS AND INSTITUTIONS. 1. The courts of a county may adopt local rules that govern the transmission and receipt of documents or reports stored or created in digital electronic or facsimile form and recognize such document as the original record for file, or evidentiary purpose. Said rules shall be submitted to the Supreme Court for review and adoption as a part of the overall plan or procedure.

SECTION 3. SUPREME COURT REGULATION AND APPROVAL. (a) If the Supreme Court determines that each document filed by electronic transmission be signed in the original, it shall be sufficient that the sending station at the point of origin maintain a hard copy with original signature affixed, which shall be filed in original hard copy medium upon order of the Court. The electronic transmission of the data to be filed shall bear a facsimile or printing of the required signature, which may be represented in numerical form. The electronically reproduced document shall bear a copy of this signature or its representation in numerical form, and the electronically reproduced document shall be accepted as the signature document for all court-related purposes unless the hard copy with original signature affixed is requested by one or more parties to a suit or other agent required by statute, law or other legal requirement, and the request is made in the form of a motion to the court, which shall, upon granting the motion, order that the original be filed with the Court.

(b) The court shall adopt rules and procedures to regulate the use of electronic copying devices for filing in the courts.

(c) A District Clerk who believes there is justification for use of an electronic filing system in his office shall request approval from the Supreme Court. The court shall approve or disapprove the request, and may withdraw approval at any time the system does not meet its requirements.

SECTION 4. 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 33 was read second time.

Representative Green offered the following amendment to CSHB 33:

Amend CSHB 33 on page 1, lines 5 and 6, by striking “Defined as ‘data’” and substituting “Electronic filing of documents is data”.

The amendment was adopted without objection.

Representative Green offered the following amendment to CSHB 33:
Amend CSHB 33 by adding the following between “District” and “Clerk” on both page 1, line 20, and on page 3, line 13:
“or County”

The amendment was adopted without objection.

Representative L. Evans offered the following amendment to CSHB 33:

Amend CSHB 33 as follows:
on page 1, line 6, after the word “clerk”, add the words or a clerk of any Court of Appeals;
on page 1, line 10, after the word “county”, add the words or Court of Appeals;
on page 1, line 15, after the word “clerk”, add the words or the clerk of the Court of Appeals;
on page 1, line 20, after the word “clerk”, add the words or the clerk of the Court of Appeals;
on page 2, line 12, after the word “returns”, add the words transcripts of previous court proceedings;
on page 3, line 13, after the word “clerk”, add the words or clerk of a Court of Appeals

The amendment was adopted without objection.

CSHB 33, as amended, was passed to engrossment.

HB 645 ON SECOND READING

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

HB 645, A bill to be entitled An Act relating to the consolidation of property tax assessing and collecting.

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

HB 1819 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1819.

CSHB 1819

A BILL TO BE ENTITLED
AN ACT
relating to the duties of persons authorized to conduct marriage ceremonies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 1.83, Texas Family Code, is amended to read as follows:
(a) The following persons are authorized to conduct marriage ceremonies:
(1) licensed or ordained Christian ministers and priests;
(2) Jewish rabbis;
(3) persons who are officers of religious organizations and who are duly authorized by the organization to conduct marriage ceremonies; and
(4) justices of the supreme court, judges of the court of criminal appeals, justices of the courts of appeals, judges of the district, county, and probate courts, judges of the county courts at law, courts of domestic relations and juvenile courts, retired justices and judges of such courts, justices of the peace, retired justices of the peace, and judges and magistrates of the federal courts of this state.
(b) For the purposes of this section, a retired judge of a county court, probate court, county court at law, court of domestic relations, or juvenile court or a retired justice of the peace is a person who has an aggregate of at least 15 years of service
as a judge of any court or courts or as a justice of the peace and who has ceased to
serve in that capacity. The person is considered as retired in the capacity of last
service.

(c) All persons authorized under this section to conduct marriage ceremonies
are prohibited from discriminating on the basis of race, religion, or national origin
against any applicants who are otherwise qualified under this code to be married.

(d) Judges or justices of any court listed in subsection (a)(4) of this section
shall be removed from office by the Commission on Judicial Conduct upon a
finding that he or she has intentionally violated subsection (c) of this section.

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 1819 was read second time.

Representative Oliver offered the following amendment to CSHB 1819:

On page two, at line 5, strike subsection (c) and replace with new subsection
(c) as follows:

“(c) All persons authorized under subsection (a)(4) of this section to conduct
marriage ceremonies are prohibited from discriminating on the basis of race,
religion, or national origin against any applicants who are otherwise qualified to be
married.”

The amendment was adopted without objection.

Representative Oliver offered the following amendment to CSHB 1819:

On page two, at line 9, strike subsection (d) and replace with a new subsection
(d) as follows:

“(d) Upon a finding by the Commission on Judicial Conduct that a judge or
justice of any court listed in subsection (a)(4) of this section has intentionally
violated subsection (c) of this section, the Commission shall recommend to the
Supreme Court that he or she be removed from office.”

(Hackney in the chair)

Representative Khoury offered the following amendment to the
Oliver amendment:

Amend the Oliver amendment to CSHB 1819 by striking the word “shall”
and substitute the word “may” on line 5.

(Speaker in the chair)

Representative Oliver moved to table the Khoury amendment.

The motion to table was lost.

A record vote was requested.

The Khoury amendment was adopted by (Record 341): 79 Yeas, 63 Nays,
1 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Blanton; Bomar; Buchanan; Burnett;
Ceverha; Clark; Clemmons; Connelly; Coody; Craddick; Crockett; DeLay; Eckels;
Eikenburg; English; Evans, C.; Fennell; Fox; Gavin; Geistweidt; Gibson, B.;
Gibson, J.; Grisham; Haley; Hall, T.; Hammond; Hanna; Harrison, D.; Heflin;
Hightower; Hibbert; Hill, A.; Hill, P.; Horn; Hudson, D.; Jones; Keller; Khoury;
Kubiak; Kuempel; McKenna; McWilliams; Mankins; Messer; Millsap;
May 10, 1983  HOUSE JOURNAL  1845

Moreno, P.; Patrick; Patterson; Pennington; Peveto; Pierce; Presnal; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shea; Short; Simpson; Smith, A.; Smith, T.; Staniswalis; Stiles; Thompson, G.; Toomey; Tow; Turner; Waldrop; Wallace; Whaley; Wieting; Wolens; Word; Wright.

Nays — Barton, B.; Barton, E.; Berlanga; Bush; Cain; Carriker; Cary; Cavazos, Colbert; Collazo; Criss; Danburg; Davis; Delco; Denton; Edwards; Evans, L.; Gamez; Gandy; Garcia, A.; Garcia, M.; Gilley; Granoff; Green; Hackney; Hall, L.; Hall, W.; Harrison, W.; Hernandez; Hill, G.; Hinojosa; Hollowell; Hudson, S.; Hury; Jackson; Kemp; Laney; Lee, D.; Lee, E. F.; Luna; Madia; Martinez, R.; Martinez, W.; Moreno, A.; Oliveira; Oliver; Parker; Patronella; Polk; Price; Ragsdale; Rangel; Salinas; Shaw; Smith, C.; Sutton; Tejeda; Thompson, S.; Valles; Vowell; Watson; Willis; Wilson.

Present, not voting — Mr. Speaker(C).

Absent — Barrienteos; Emmett; Glossbrenner; Leonard; Polumbo; Robinson; Uher.

The Oliver amendment, as amended, was adopted without objection.

(Delco in the chair)

Representative T. Hall moved to table CSHB 1819.

A record vote was requested.

The motion to table was lost by (Record 342): 6 Yeas, 133 Nays, 1 Present, not voting.

Yeas — Green; Hall, T.; McKenna; Pennington; Waldrop; Wieting.

Nays — Arnold; Barrienteos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Coody; Craddock; Criss; Crockett; Danburg; Davis; DeLay; Delco(C); 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; Hackney; Haley; Hall, L.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Luna; McWilliams; Madia; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patrick; Patronella; Patterson; Peveto; Pierce; Polk; Polumbo; Price; Ragsdale; Rangel; Robnett; Rudd; Russell; Salinas; Saunders; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Vowell; Wallace; Watson; Whaley; Willis; Wilson; Wolens; Word; Wright.

Present, not voting — Mr. Speaker.

Absent — Agnich; Armbrister; Hernandez; Horn; Leonard; Mankins; Parker; Presnal; Robinson; Schlueter.

CSHB 1819, as amended, was passed to engrossment.
MESSAGE FROM THE SENATE

Austin, Texas, May 10, 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:

HCR 240 by Geistweidt, commending Gene Zesch.
HB 1389 by Uher, et al., relating to apportionment of the state into representative districts.

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to SB 623 by 24 yeas, 0 nays; SB 737 by 23 yeas, 0 nays; SB 761 by viva voce vote.

Respectfully,
Betty King
Secretary of the Senate

HB 1538 ON SECOND READING

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

HB 1538, A bill to be entitled An Act relating to the teaching of mathematics, science, computer science, and related technological subjects in the public schools.

The bill was read second time.

(Speaker in the chair)

Representative Ragsdale offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend HB 1538 by amending Subsection 13.303(b) to read as follows:

(b) A noncertified instructor may not teach more than three classes per day during any semester. A noncertified instructor’s compensation may not exceed the number of courses he teaches divided by the normal instructional course load for a secondary teacher in the district, multiplied by the district’s minimum salary for a certified teacher with a bachelor’s degree. Such compensation shall be paid to the noncertified person, or to any other person, partnership, corporation, or institution designated in writing by the noncertified person. Provided that this subsection does not apply to a noncertified instructor who is teaching in the public schools as part of a teacher training program in an accredited institution of higher education.

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

Amend Committee Amendment No. 1 by deleting “Provided that” from page 6 line 12.

The amendment was adopted without objection.

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

Representative Heflin offered the following committee amendment to the bill:
COMMITTEE AMENDMENT NO. 2

Amend HB 1538, Section 13.302(d):

Insert the following after "The Commissioner of Education", "The Commissioner of Education shall review and approve or reject the comprehensive plan consistent with the intent expressed in the legislation. The Commissioner must affirm or reject the application within 30 days.

Committee Amendment No. 2 was adopted without objection.

Representative Polk offered the following amendment to the bill:

Amend HB 1538 as follows:

(1) On page 2 add (7) after line 27
(7) a certified instructor will be required in each classroom to supervise non-certified instructors.

Representative Hammond moved to table the Polk amendment.

The motion to table prevailed.

LEAVE OF ABSENCE GRANTED

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

Leonard on motion of Watson.

HB 1538 - (consideration continued)

Representative Delco offered the following amendment to the bill:

Amend HB 1538 on page 4, between lines 20 and 21 to insert a new Subsection (g) to read as follows:

(g) A non-certified instructor is ineligible to participate further in a program under this subchapter for more than one year except the instructor may continue after that year if working on certification as defined by rule of State Board of Education.

Representative Hammond moved to table the Delco amendment.

The motion to table prevailed.

A record vote was requested.

HB 1538, as amended, was passed to engrossment by (Record 343): 85 Yeas, 61 Nays, I Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Blanton; Bomer; Buchanan; Burnett; Cary; Ceverha; Clark; Colbert; Connelly; Craddock; Davis; DeLay; Delco; Eckels; Eikenburg; Emmett; English; Finnell; Fox; Gandy; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Granoff; Grisham; Haley; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hollowell; Horn; Hudson, S.; Hury; Jackson; Keller; Khoury; Kubiak; Kuempel; Laney; McKenna; Mankins; Messer; Oliveira; Oliver; Parker; Patrick; Pennington; Peveto; Pierce; Presnal; Ragsdale; Robnett; Rudd; Saunders; Schoolcraft; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Thompson, G.; Toomey; Tow; Turner; Uher; Vowell; Waldrop; Wallace; Whaley; Wieting; Wolens; Word; Wright.

Nays — Barrientos; Barton, B.; Barton, E.; Berlanga; Bush; Carriker; Cavazos; Clemens; Collazo; Coody; Crockett; Danburg; Denton; Edwards; Evans, C.; Evans, L.; Gamez; Garcia, A.; Garcia, M.; Gilley; Glossbrenner; Green; Hackney;
Present, not voting — Mr. Speaker(C).
Absent, Excused — Leonard.
Absent — Cain; Criss.

STATEMENT BY REPRESENTATIVE E. F. LEE

I mistakenly voted no on HB 1538 and would like to be shown voting yes.

E. F. Lee

HB 1135 - RULES SUSPENDED

Representative Russell moved to suspend the 48-hour subcommittee report rule to allow the Committee on Elections to consider HB 1135.

The motion prevailed without objection.

HR 361 - ADOPTED

Representative Luna moved that all necessary rules be suspended to take up and consider at this time, HR 361.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Luna, et al.:

HR 361

WHEREAS, On Sunday, May 8, 1983, Representative Clint Hackney and his lovely wife, Gail, became the proud parents of a healthy and happy baby girl; and

WHEREAS, Jennifer Gail Hackney was born in Houston, weighing eight pounds and twelve and one-half ounces; and

WHEREAS, The House of Representatives desires to recognize this significant event in the lives of Representative and Mrs. Hackney and commend Jennifer Gail on her good fortune of Texas citizenship; now, therefore, be it

RESOLVED, That the House of Representatives of the 68th Legislature hereby congratulate Representative Clint Hackney and Mrs. Gail Hackney on the birth of their daughter and extend official greetings to a new Texan, Jennifer Gail Hackney; and, be it further

RESOLVED, That official copies of this resolution be prepared for Miss Hackney and her parents as expressions of warm regards from the members of the Texas House of Representatives.

The resolution was read and was adopted without objection.

On motion of Representative Watson, the names of all the members of the house were added to HR 361 as signers thereof.

SB 480 - MOTION TO SUSPEND RULES

Representative Uher moved to suspend the 5-day posting rule to allow the Committee on Regions, Compacts, and Districts to consider SB 480.

The motion was lost.
COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

State Affairs, Subcommittee on HB 643, on noon recess today, back hall, to consider HB 643.

State Affairs, Subcommittee on HB 249, on noon recess today, back hall, to consider HB 249.

Insurance, Subcommittee on Property and Casualty, on noon recess today, Desk 18, to consider HB 564.

State Affairs, Subcommittee on HB 1171, on noon recess today, back hall, to consider HB 1171.

Appropriations, on noon recess today, Desk 58, to consider CSHB 1424 and CSHB 2062.

Public Health, on noon recess today, Room 410, Reagan Building, to consider Monday's posted bills.

Criminal Jurisprudence, Subcommittee on HB 964, on noon recess today, Desk 88, to consider HB 964.

Elections, Subcommittee on HB 1135, on noon recess today, back hall.

Energy, Subcommittee on HB 2195, on noon recess today, Desk 70, to consider HB 2195.

State Affairs, Subcommittee on HJR 37, on noon recess today, back hall, to consider HJR 37.

State Affairs, Subcommittee on HB 394, on noon recess today, back hall, to consider HB 394.

RULES SUSPENDED

Representative G. Thompson moved to suspend the 5-day posting rule to allow the Committee on County Affairs to consider HB 2432, HB 2431, HB 2428, HB 2425, HB 2411, HB 2410, HB 2409, HB 2408, HB 2407, HB 2412, HB 2406, HB 2404, and HB 2401.

The motion prevailed without objection.

RECESS

Representative Watson moved that the house recess until 2:15 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:52 p.m., recessed until 2:15 p.m. today.

AFTERNOON SESSION

The house met at 2:15 p.m. and was called to order by the speaker.

HB 593 WITH SENATE AMENDMENTS

Representative Messer called up with senate amendments for consideration at this time.

HB 593, A bill to be entitled An Act relating to the administration, powers, duties, and continuation of the Railroad Commission of Texas; providing penalties.
On motion of Representative Messer, the house concurred in the senate amendments to HB 593.

**HB 593 - TEXT OF SENATE AMENDMENTS**

**SENATE AMENDMENT NO. 1**

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

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

**SECTION 1.** Article 6447, Revised Statutes, is amended to read as follows:

**Art. 6447.** THE COMMISSION. Election._: _The Railroad Commission of Texas shall be composed of three members, one of whom shall be elected biennially at each general election for a term of six years.

Qualifications.—The members shall be resident citizens of this State, and qualified voters under the Constitution and laws, and not less than twenty-five years of age. (No member shall be directly or indirectly interested in any railroad, or in any stock, bond, mortgage, security or earnings of any railroad, and should a member voluntarily become so interested his office shall become vacant; or should he become so interested otherwise than voluntarily, he shall within a reasonable time divest himself of such interest, failing to do this, his office shall become vacant.)

Shall hold no other office, etc.—No railroad commissioner shall hold any other office of any character, while such commissioner, nor engage in any occupation or business inconsistent with his duties as such commissioner.

Oath, etc.—Before entering upon the duties of his office, each commissioner shall subscribe to the official oath and shall in addition thereto, swear that [he is not directly or indirectly interested in any railroad, nor in the bonds; stock; mortgages; securities; contracts or earnings of any railroad; and that] he will to the best of his ability faithfully and justly execute and enforce the provisions of this title, and all laws of this State [concerning railroads], which oath shall be filed with the Secretary of State.

Organization.—The commissioners shall elect one of their number chairman. They may make all rules necessary for their government and proceedings. [They may appoint a secretary at a salary not exceeding $2,000.00 per annum; and not more than two clerks at salaries not exceeding $1,500.00 per annum each, and such other experts as may be necessary.] They shall be known collectively as the "Railroad Commission of Texas," and shall have a seal, a star of five points with the words "Railroad Commission of Texas" engraved thereon. They shall be furnished [with an office at the Capitol, and with] necessary furniture, stationery, and all necessary expenses, to be paid for on the order of the Governor.

[Secretary's duties.—The secretary shall keep full and correct minutes of all the transactions and proceedings of the Commission, and perform such duties as the Commission may require of him.]

Expenses.—The Commissioners [and their employees] shall receive from the State their [actual] necessary traveling expenses while traveling on the business of the Commission, which shall include the cost only of transportation while traveling on business for the Commission, upon an itemized statement thereof, sworn to by the party who incurred the expense, and approved by the Commission. Employees of the Commission are entitled to reimbursement for expenses incurred in traveling on the business of the Commission as provided by the General Appropriations Act.

**Sections.**—The Commission may hold its sessions at any place in this State when deemed necessary.

**SECTION 2.** Title 112, Revised Statutes, is amended by adding Articles 6447a-1 through 6447h to read as follows:

**Art. 6447a-1.** DEFINITION. In Articles 6447b-6447h, Revised Statutes, "commission" means the Railroad Commission of Texas.
Art. 6447b. EMPLOYEE PERFORMANCE. (a) The commission or its 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.

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

(c) The commission 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 plan shall include plans for recruitment, selection, appointment, training, promotion, and other personnel practices. The plan shall also include steps reasonably designed to overcome any identified under-utilization of minorities and women in the commission's work force and shall include objectives and goals, timetables for achieving those objectives and goals, and assignments of responsibility for their completion. The plan shall be filed with the governor's office within 60 days after the effective date of this section, cover an annual period, and be updated at least annually. Progress reports shall be submitted to the governor's office within 30 days of November 1 and April 1 of each year and shall include the steps the commission has taken within the reporting period to comply with this requirement of this section.

Art. 6447c. CONFLICT OF INTEREST. (a) An employee of the commission may not be an officer, employee, or paid consultant of a trade association in a business or industry regulated by the commission.

(b) An employee of the commission 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 a business or industry regulated by the commission.

(c) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislative, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to the commission.

(d) The commission, as often as necessary, shall provide information regarding the employees' responsibilities under applicable laws relating to standards of conduct for state employees.

Art. 6447d. COMMISSION AUDIT. The state auditor shall audit the financial transactions of the commission during each fiscal year.

Art. 6447e. APPLICATION OF OTHER LAWS. The commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Art. 6447f. HEARING REQUIREMENT. (a) If the commission proposes to suspend or revoke a person's license, permit, or certificate of public convenience and necessity, the person is entitled to a hearing before the commission.

(b) Proceedings for the suspension or revocation of a license, permit, or certificate of public convenience and necessity are governed by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(c) The commission may not:

(1) refuse to issue a license, permit, or certificate to a person because of the person's race, religion, color, sex, or national origin; or

(2) revoke or suspend the license, permit, or certificate of a person because of the person's race, religion, color, sex, or national origin.
Art. 6447g. INFORMATION RELATING TO COMMISSION ACTIVITIES. The commission shall prepare information of consumer interest describing the regulatory functions of the commission and describing the commission's procedures by which consumer complaints are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.

Art. 6447h. COMPLAINTS. (a) The commission shall keep an information file about each complaint filed with the commission relating to a person who has a license, permit, or certificate of public convenience and necessity from the commission.

(b) If a written complaint is filed with the commission relating to a person who has a license, permit, or certificate of public convenience and necessity from the commission, at least as frequently as quarterly and until final disposition of the complaint, the commission shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation. This section does not apply to complaints under Chapter 91, Natural Resources Code.

SECTION 3. Section 10, Chapter 270, Acts of the 40th Legislature, Regular Session, 1927 (Article 911a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. The hearing shall be conducted under such rules and regulations as the Commission may prescribe, and all parties interested, including the Highway Commission of this State, may appear either in person or by counsel, and present such evidence and argument as they may desire and as the Commission may deem pertinent, in favor of or against the granting of said application. It shall be the duty of the Highway Commission of this State, upon the request of the Commission to furnish any and all information that it has at its command relating to the highway or highways designated in such application as well as such other information as said Commission may deem pertinent to the granting or refusal of such application. After such hearing, and such investigation as the Commission may make of its own motion, it shall be the duty of said Commission to either refuse said application and certificate, or to grant said application and issue said certificate, in whole or in part, upon such terms and conditions as it may impose, and subject to such rules and regulations as it may thereafter prescribe.

The Commission, at any time by its order duly entered after hearing had upon notice to the holder of any certificate granted under this Act and an opportunity given such holder to be heard, at which hearing it shall be proven to the satisfaction of the Commission that such certificate holder has discontinued operation or has violated or refused or neglected to observe any of its proper orders, rates, fares, rules, or regulations, may suspend, revoke, alter or amend any certificate issued under the provisions of this Act, provided that the holder of such certificate shall have the right of appeal as provided herein. The Commission may place on probation a person whose certificate has been suspended, but if the Commission does place the certificate holder on probation and does allow him to continue to operate, the fact that the certificate has been suspended and the certificate holder has been put on probation shall appear in the records of the Commission relating to the suspension and probation.

SECTION 4. Subsection (b), Section 12, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The Commission at any time after hearing, had, upon notice to the holder of any certificate or permit and after opportunity given such holder to be heard, may by its order revoke, suspend or amend any certificate or permit issued under the provisions of this Act, where in such hearing the Commission shall find that such certificate or permit holder has discontinued operation or has violated, refused or
neglected to observe the Commission's lawful orders, rules, rates or regulations or has violated the terms of said certificate or permit; provided, that the holder of such certificate or permit shall have the right of appeal as provided in this Act. The Commission may place on probation a person whose certificate or permit has been suspended, but if the Commission does place the certificate or permit holder on probation and does allow him to continue to operate, the fact that the certificate or permit has been suspended and the certificate or permit holder has been put on probation shall appear in the records of the Commission relating to the suspension and probation.

SECTION 5. Section 113.163, Natural Resources Code, is amended to read as follows:

Sec. 113.163. FINDINGS AND JUDGMENT. (a) If the commission finds that the licensee or registrant has violated or failed to comply with or is violating or failing to comply with this chapter or a rule or standard promulgated and adopted under this chapter, or both, the commission may suspend the license or registration for a definite period not to exceed 90 days or may revoke the license or registration.

If the commission determines that no violation has occurred or is occurring, its order shall so state.

(b) The commission may place on probation a person whose license or registration has been suspended under Subsection (a) of this section, but if the commission does place the licensee or registrant on probation and does allow him to continue to operate, the fact that the license or registration has been suspended and the licensee or registrant has been put on probation shall appear in the records of the commission relating to the suspension and probation.

SECTION 6. Chapter 113, Natural Resources Code, is amended by adding Section 113.0511 to read as follows:

Sec. 113.0511. LIMITATIONS ON RULEMAKING AUTHORITY. (a) The commission may not adopt rules restricting competitive bidding or advertising by a person regulated by the commission except to prohibit false, misleading, or deceptive practices by the person.

(b) The commission may not include in any rules to prohibit false, misleading, or deceptive practices by a person regulated by the commission a rule that:

1. restricts the person's use of any medium for advertising;
2. restricts the person's personal appearance or use of his voice in an advertisement;
3. relates to the size or duration of an advertisement by the person; or
4. restricts the person's advertisement under a trade name.

SECTION 7. Sections 113.082, 113.087, and 113.093, Natural Resources Code, are amended to read as follows:

Sec. 113.082. CATEGORIES OF LICENSEE; FEES. A prospective licensee in LPG may apply to the LPG division for a license to engage in any one or more of the following categories:

(A) manufacturers/fabricators: the manufacture, fabrication, assembly, repair, installation, subframing, and sale of LPG containers, including LPG motor fuel containers and systems, and the repair and installation of transport and transfer systems; and category "A" application and original license fee is an amount not to exceed $1,000 as determined by the commission ($500); the annual renewal license fee is an amount not to exceed $600 as determined by the commission ($300);

(B) transport outfitters: the subframing and sale of LPG transport containers, the installation and sale of LPG motor fuel containers, and the installation and repair of transport and motor fuel systems; the category "B"
application and original license fee is an amount not to exceed $200 as determined by the commission [$50]; the annual renewal license fee is an amount not to exceed $100 as determined by the commission [$50];

(C) carriers: the transportation of LPG by transport, including the loading and unloading of LPG, and the installation and repair of transport systems; the category “C” application and original license fee is an amount not to exceed $1,000 as determined by the commission [$500]; the annual renewal license fee is an amount not to exceed $300 as determined by the commission [$150];

(D) general installers and repairmen: the sale, service, and installation of containers, excluding motor fuel containers, and the service, installation, and repair of piping, certain appliances as defined by rule, and LPG systems, excluding motor fuel systems; except that the commission may, by rule, exempt journeymen and/or master plumbers duly licensed by the Texas State Board of Plumbing Examiners from this licensing requirement; the category “D” application and original license fee is an amount not to exceed $100 as determined by the commission [$50]; the annual renewal license fee is an amount not to exceed $70 as determined by the commission [$35];

(E) retail and wholesale dealers: the storage, sale, transportation, and distribution of LPG at retail and wholesale, and all other activities included in this section except the manufacture, fabrication, assembly, repair, and subframing of LPG containers; the category “E” application and original license fee is an amount not to exceed $1,000 as determined by the commission [$500]; the annual renewal license fee is an amount not to exceed $300 as determined by the commission [$150];

(F) bottle exchanges: the operation of a bottle-filling and container exchange dealership, including bottle filling and the sale of bottled LPG; the category “F” application and original license fee is an amount not to exceed $100 as determined by the commission [$50]; the annual renewal license fee is an amount not to exceed $50 as determined by the commission [$25];

(G) service station: the operation of an LPG service station filling ASME containers designed for motor and mobile fuel; the category “G” application and original license fee is an amount not to exceed $100 as determined by the commission [$50]; the annual renewal license fee is an amount not to exceed $50 as determined by the commission [$25];

(H) bottle dealers: the transportation and sale of bottled LPG; the category “H” application and original license fee is an amount not to exceed $1,000 as determined by the commission [$500]; the annual renewal license fee is an amount not to exceed $300 as determined by the commission [$150];

(I) service station and bottle exchanges: any service station and bottle activity set out in categories “F” and “G” of this section; the category “I” application and original license fee is an amount not to exceed $150 as determined by the commission [$75]; the annual renewal license fee is an amount not to exceed $70 as determined by the commission [$35];

(J) service station and bottle dealerships: the operation of a bottle-filling and container-exchange dealership, including bottle filling and the sale, transportation, installation, and connection of bottled LPG, and the operation of an LPG service station as set out in category “G”; the category “J” application and original license fee is an amount not to exceed $1,000 as determined by the commission [$500]; the annual renewal license fee is an amount not to exceed $300 as determined by the commission [$150];

(K) distribution system: the sale and distribution of LPG through mains or pipes and the installation and repair of LPG systems; the
category "K" application and original license fee is an amount not to exceed $1,000 as determined by the commission ($500); the annual renewal license fee is an amount not to exceed $300 as determined by the commission ($150).

(L) Carburetion: the sale and installation of LPG motor fuel containers, and the sale and installation of LPG motor fuel systems; application and original license fee is an amount not to exceed $100 as determined by the commission ($50); annual renewal license fee is an amount not to exceed $50 as determined by the commission ($25).

Sec. 113.087. EXAMINATION AND SEMINAR REQUIREMENTS. (a) The satisfactory completion of the requirements of this section is mandatory, and operations requiring an LP-gas license may not commence, continue, or resume unless examination and seminar requirements are fulfilled.

(b) Before license issuance, the commission shall require the individual designated as the licensee's representative to the commission to provide good and sufficient proof through examination prepared and administered by the commission of working knowledge of this chapter and rules of the commission which affect the category of license for which application is made. Thereafter, each licensee shall maintain a qualified representative at all times.

(c) Each individual who will be actively supervising those operations requiring any license under this chapter at any outlet or location, as designated by the commission, shall be required to provide good and sufficient proof through examination prepared and administered by the commission that the supervisor has a working knowledge of the safety requirements and penalties in this chapter and the rules of the commission which apply to that category of license.

(d) As determined by commission rule, each individual who is or will be utilized by a licensee in LPG-related activities shall be required to provide good and sufficient proof through examination prepared and administered by the commission that the employee has a working knowledge of the safety requirements in the rules of the commission relating to the activity or activities.

(e) No licensee may employ or otherwise utilize any person as a representative to the commission, nor as a supervisor or employee in LPG-related activities, unless and until the person has qualified by satisfactory completion of the examination requirements established by this section.

(f) The commission shall promulgate rules relating to changes in representatives, supervisors, and employees, and may permit temporary exemption from the examination requirements for a maximum period of 45 days.

(g) In no event shall an original license be issued to an applicant when the representative's required examination was last taken and passed more than five years before the proposed date of license issuance.

(h) Satisfactory completion of any required examination under this section shall accrue to the individual.

(i) Not later than the 30th day on which an examination is administered under this section, the commission shall notify each examinee of the results of the examination. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commission shall notify the examinee of the reason for the delay before the 90th day.

(j) If requested in writing by a person who fails the licensing examination administered under this section, the commission shall furnish the person with an analysis of the person's performance on the examination.

(k) The commission, by appropriate rule, may require, in addition to examination requirements as set out in Subsections (b), (c), and (d) of this section, attendance at approved academic, trade, professional, or commission-sponsored seminars, other continuing education programs, and periodic reexaminations.
Sec. 113.093. LICENSE RENEWAL. (a) A license issued pursuant to this chapter is renewable on the timely payment or tender of the renewal license fee before the expiration date of the license [by 12 midnight, August 31, of each year].

(b) If a person's license has been expired for not longer than 90 days, the person may renew the license by paying to the commission the required renewal fee and a fee that is one-half of the amount of the renewal fee for the license.

(c) If a person's license has been expired for longer than 90 days but less than two years, the person may renew the license by paying to the commission all unpaid renewal fees and a fee that is equal to the amount of the unpaid renewal fees for the license.

(d) If a person's license has been expired for two years or longer, the person may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

(e) A renewal license will be issued to a licensee as soon as is practicable after compliance with [Subsection (a) of this section, and fulfillment of insurance, examination, and seminar requirements established by this chapter, and submission of any information and data the commission may reasonably require.

(f) [re] Renewal license fees shall be nonrefundable.

(g) At least 30 days before the expiration of a person's license the commission shall notify the person in writing of the impending license expiration and shall attempt to obtain from the person a signed receipt confirming receipt of the notice.

SECTION 8. Chapter 113, Natural Resources Code, is amended by adding Sections 113.094 and 113.095 to read as follows:

Sec. 113.094. STAGGERED RENEWAL OF LICENSES. The commission, by rule, may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license fees payable on a specified date shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Sec. 113.095. LICENSE BY ENDORSEMENT. The commission may waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

SECTION 9. Section 15, Chapter 270, Acts of the 40th Legislature, Regular Session, 1927 (Article 91 la, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 15. For the purpose of defraying the expense of administering this Act, every motor bus company now operating, or which shall hereafter operate in this State, shall, in addition to other fees and charges provided for by law, at the time of the issuance of a certificate of convenience and necessity, as provided herein, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay a special minimum fee of Ten Dollars ($10) for each motor-propelled vehicle, and a further fee, computed on the basis of One Dollar ($1) per passenger seat for the rated passenger capacity of the vehicle, or vehicles used.

If the certificate of convenience and necessity herein referred to is issued after the month established for registration [of September of any year], the fees paid shall be proportionate to the remaining portion of the registration year [ending August 31st following], but in no case less than one-fourth (1/4) the annual fee. In case of emergencies or unusual temporary demands for transportation, the fee for additional motor-propelled vehicles for less periods shall be fixed by the Commission in such reasonable amount as may be prescribed by general rule or temporary order.
All fees accruing hereunder and all fines and penalties collected under the provisions of this Act shall be payable to the State Treasurer at Austin, Texas, and shall, by the State Treasurer, be deposited in the State Treasury at Austin and credited to the General Revenue Fund.

The Commission, by rule, may adopt a system under which fees become due on various dates during the year. In the year in which the registration expiration date is changed, the fees payable under the existing system shall be prorated on a monthly basis so that each registrant shall pay only that portion of the fee that is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration renewal fee is payable.

SECTION 10. Section 17, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) For the purpose of defraying the expense of administering this Act, every common carrier motor carrier now regularly operating, or which shall hereafter regularly operate in this state, shall at the time of the issuance of a certificate of convenience and necessity, unless otherwise provided herein, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay a special fee of ten dollars ($10), for each motor propelled vehicle operated or to be operated by such motor carrier in the carriage of property. If the certificate of convenience and necessity herein referred to is issued after the month established for registration, the fee paid shall be prorated to the remaining portion of the registration year ending August 31st following, but in no case less than one-fourth (1/4) the annual fee. In case of an emergency or unusual temporary demands for transportation the fee for additional motor propelled vehicles for less period shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order. Every application for a certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five ($25.00) Dollars, which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the certificate of convenience and necessity be granted or not.

SECTION 11. Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended by adding Section 17A to read as follows:

Sec. 17 A. The Commission, by rule, may adopt a system under which registrations expire on various dates during the year. For the year in which the registration expiration date is changed, registration fees payable under the existing system shall be prorated on a monthly basis so that each registrant shall pay only that portion of the registration fee that is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration renewal fee is payable.

SECTION 12. Section Sb, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. Sb. (a) A person transporting eligible agricultural commodities is not required to obtain a certificate of convenience and necessity if he holds an agricultural permit issued by the Commission. A person holding an agricultural permit may transport eligible agricultural commodities from any point of origin to any destination within the State. Eligible agricultural commodities include: (1) ordinary livestock; (2) agricultural or horticultural commodities (other than manufactured products thereof); (3) livestock and poultry feed and agricultural seeds and plants; provided, however, that eligible agricultural commodities shall not include repair parts, tires, batteries, machinery, equipment, crushed rocks, or canned goods. The Commission may pass rules and regulations...
to implement this Section. A person transporting eligible agricultural commodities in their natural state for compensation or hire is not required to obtain a certificate of convenience and necessity if he holds a seasonal agricultural license issued by the Commission. A person holding a seasonal agricultural license may transport eligible agricultural commodities only from the place where the commodities are produced and harvested to the first processor. A holder of a seasonal agricultural license may also transport cotton and cottonseed from a cotton gin to the next processor or point of storage. This transportation may not exceed a distance of seventy-five (75) miles, and must be intrastate commerce. Agricultural commodities in their natural state include those commodities produced and harvested on a farm which must be transported to storage or a first processor; but do not include the manufactured products of agricultural commodities; nor do they include livestock, milk, wool, molasses, or timber in its natural state.

(b) The Commission may issue a seasonal agricultural license to a person who files an application meeting the requirements of this Act if the motor vehicles to be used in the transportation are not used for carrying any other property or passengers for compensation.

(b) (c) The Commission may issue [seasonal] agricultural permits [licenses] without notice, hearing, or proof of public convenience and necessity. Each permit [license] is valid for one year [hundred twenty (120) days] from the date of issuance unless a shorter period is requested by the applicant.

(c) (d) An application for an [a seasonal] agricultural permit [license] must include:

(1) the applicant's full name and address;
(2) a complete list of all motor vehicles proposed to be used, including the make, unit number, and identification number of each vehicle; and
(3) a sworn statement by the applicant that he will transport under the permit [license] only those agricultural commodities eligible to be transported under this section and will transport them only in intrastate commerce.

(d) (e) An [A seasonal] agricultural permit [license] may not be sold, assigned, inherited, or otherwise transferred.

(e) (f) An application for an [a seasonal] agricultural permit [license] must be accompanied by a Twenty-five Dollar ($25) filing fee, which shall be retained by the Commission whether or not the permit [license] is granted. This fee covers up to five (5) motor vehicles. If the permit [license] is to cover more than five (5) motor vehicles, the applicant shall pay at the time the permit [license] is issued an additional fee of Five Dollars ($5) for each motor vehicle in excess of five (5) to be operated under the permit [license].

(f) (g) The issuance of [seasonal] agricultural permits [licenses] is exempt from the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and from the requirements of Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

(g) (h) The Commission shall issue to each permittee [licensee] an identification card for each motor vehicle covered by the permit [license]. The card must be displayed within the cab of the vehicle. The card shall include the permit [license] number and the name and address of the owner of the permit [license]. A person may not use an identification card after the permit [license] has expired. The Commission shall prescribe the form for the identification card and may include additional information on the card.

(h) The transportation of eligible agricultural commodities under a permit issued under this section is not subject to the rate-making authority of the Commission, and the Commission may not adopt or enforce rates, fares, or charges for that transportation.
(i) The transportation of eligible agricultural commodities under a permit issued under this section is subject to the provisions of this Act and rules of the Commission adopted under this Act relating to insurance and bond requirements and to safety requirements.

(j) This section does not apply to any person transporting in the person’s own vehicle agricultural commodities in their natural state, which that person owns, to and from the area of production and to and from the market or place of storage thereof.

SECTION 13. Section 16, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon’s Texas Civil Statutes), is amended by adding Subsection (l) to read as follows:

(l) A person holding a current, valid agricultural permit issued by the Commission under Section 9b of this Act or an officer, agent, servant, or employee of that person, who, without lawful authority, transports a commodity other than an eligible agricultural commodity commits an offense. An offense under this subsection is punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than Two Hundred Dollars ($200.00). Each violation is a separate offense.

SECTION 14. Subsection (c) of Section 1, Chapter 270, Acts of the 40th Legislature, 1927 (Article 911a, Vernon’s Texas Civil Statutes) is amended to read as follows:

(c) the term “Motor Bus Company” when used in this Act means every corporation or persons as herein defined, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating or managing any motor propelled passenger vehicle not usually operated on or over rails, and engaged in the business of transporting persons for compensation or hire over the public highways within the State of Texas, whether operating over fixed routes or fixed schedules, or otherwise. However, the term “Motor Bus Company” as used in this Act shall not include:

(1) corporations or persons, their lessees, trustees, or receivers, or trustees appointed by any court whatsoever, insofar as they own, control, operate, or manage motor propelled passenger vehicles operated wholly within the limits of any incorporated town or city, and the suburbs thereof, whether separately incorporated or otherwise; [er]

(2) corporations or persons to the extent that they own, control, operate, or manage vehicles used for van-pooling or any other nonprofit ride-sharing arrangement by which a group of people share the expense of operating or owning and operating a vehicle in which they commute to and from work with one member of the group serving as driver in exchange for transportation to and from work and reasonable personal use of the vehicle; or

(3) corporations or persons, their lessees, trustees, or receivers, or trustees appointed by any court whatsoever, insofar as they own, control, operate, or manage motor propelled taxicabs designed for carrying no more than seven passengers. Permits, licenses, or certificates issued prior to June 1, 1983, would not be affected by the provisions of this exclusion. Such taxicabs are motor buses only when they operate from and to a city or its suburb and a non-municipal airport authority located in a different city or its suburb.

This section applies to towns, cities, or suburbs within a Texas county with a population of more than 2.2 million inhabitants according to the most recent federal census.

SECTION 15. Section 6(d), Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon’s Texas Civil Statutes), is amended to read as follows:

(d) The Railroad Commission is hereby given authority to issue upon application to those persons who desire to engage in the business of transporting for
hire over the highways of this State livestock, mohair, wool, milk, livestock feedstuff, household goods, used office furniture and equipment, oil field equipment, timber in its natural state, farm machinery and grain, "Specialized Motor Carrier" certificates when it is shown by substantial evidence that there exists (1) a public necessity for such service, and that (2) public convenience will be promoted by the granting of said application.

Such certificates shall be granted upon such terms, conditions and restrictions as the Railroad Commission may deem proper, and said Railroad Commission is authorized to make rules and regulations governing such operations, keeping in mind the protection of the highways and the safety of the traveling public.

Provided that the order of the Commission granting said application, and the certificate issued thereunder shall set forth in its order findings of fact on the issues of adequacy of the service of the existing carriers and the public need for such proposed service.

SECTION 15A. DECLARATION OF POLICY AND FINDINGS. The legislature hereby finds with respect to reenactment of Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), as amended heretofore and by Sections 15B, 16, 17, and 18 of this Act, that continuation of and improvement in effective regulation of the intrastate motor carrier system are required to achieve the objectives, purposes, and transportation policies of the legislature as stated heretofore and in this Act. The legislature further finds that the amendments enacted in Sections 15B, 16, 17, and 18 of this Act are required to help achieve uniformity in enforcement as between specialized motor carriers, regular route common carriers, and contract carriers.

SECTION 15B. Section 4, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) In enforcing motor carrier entry requirements, the Commission shall require that the applicant and the protestant make the showings otherwise required by law and the showings required by this subsection. In determining the issues of public convenience and necessity, the Commission shall give no consideration to any protestant who does not show it possesses authority to handle, in whole or in part, the traffic for which authority is sought, it is willing and able to provide service that meets the reasonable needs of the shippers involved, and it has either performed service within the geographical scope of the application during the preceding 24-month period or has, actively and in good faith, solicited service within the geographical scope of the application during such period. Also, in determining the issues of public convenience and necessity, the Commission shall give no consideration to services and facilities of motor carriers not parties to the proceeding. With respect to showing public convenience and necessity, the applicant is required to prove a prima facie case that the public convenience would be promoted and a prima facie case that a public necessity exists, and in these circumstances, the burden of proof to show that the public convenience would not be promoted or that a public necessity does not exist for the proposed service or that the existing carriers are rendering a reasonably adequate service shifts from the applicant to the opposing carrier or carriers.

SECTION 16. Subsections (c) and (d), Section 5a, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) The Commission shall have no jurisdiction to consider, set for hearing, hear, or determine any application for a certificate of convenience and necessity authorizing the operation as a "specialized motor carrier" or any other common carrier except as provided in the preceding paragraph unless the application shall be in writing and set forth in detail the following facts:
1. It shall contain the name and address of the applicant, who shall be the real party at interest, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

2. The commodity or commodities or class or classes of commodities which the applicant proposes to transport and the specific territory or points to, or from, or between which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

3. It shall be accompanied by a map, showing the territory within which, or the points to or from or between which, the applicant desires to operate, [and shall contain a list of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service], shall point out the public necessity for the proposed service and in what particulars the public convenience would be promoted by the institution of the proposed service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

(d) Before any such application shall be granted, the Commission shall hear, consider and determine said application in accordance with Subsection (e) of Section 4 and Sections 8, 9, 11, 12, 13, 13a, 14, and 15 of Chapter 277, Acts of the Forty-first Legislature, Regular Session, as amended (Article 911b, Revised Civil Statutes of the State of Texas, 1925, as amended), and if the Commission shall find any such applicant entitled thereto, it shall issue a certificate hereunder on such terms and conditions as is justified by the facts; otherwise said application shall be denied. In the event an applicant meets the requirements of Subsection (e) of Section 4, as well as other requirements of this Article 911b, the [The] Commission [shall have no authority to] shall grant any application for a certificate of convenience and necessity authorizing operation as a "Specialized Motor Carrier" or any other common carrier unless it is established by the substantial evidence of record considered as a whole that (1) [that] the services and facilities of the existing carriers serving the territory or any part thereof are [inadequate] adequate; or (2) [that] there does not [exists] exist a public necessity for such service, [and] or (3) the public convenience will not be promoted by granting said application. The order of the Commission granting or denying said application and the certificate issued thereunder shall be void unless the Commission shall set forth in its order full and complete findings of fact [pointing out in detail the inadequacies] on the issues of adequacy of the services and facilities of the existing carriers, and the public need for the proposed service. Likewise, the Commission shall have no authority to grant any contract carrier application for the transportation of any commodities in any territory or between any points where it is established by substantial evidence in the record as a whole that the existing carriers are rendering, or are capable of rendering, a reasonably adequate service in the transportation of such commodities.

SECTION 16A. (a) The independent Office of Public Utility Counsel is hereby established to represent the interests of residential and small commercial consumers.

(b) The chief executive of the Office of Public Utility Counsel is the public utility counsel, hereinafter referred to as counsel. The counsel is appointed by the governor with the advice and consent of the senate to a two-year term that expires on February 1 of the final year of the term.

(c) The counsel shall employ such lawyers, economists, engineers, consultants, statisticians, accountants, clerical staff, and other employees as he or she deems necessary to carry out the provisions of this section. All employees shall receive such compensation as is fixed by the legislature from the assessment imposed by Section 78 of the Public Utility Regulatory Act.
(d) The counsellor shall be a resident of Texas and admitted to the practice of law in this state who has demonstrated a strong commitment and involvement in efforts to safeguard the rights of the public and possesses the knowledge and experience necessary to practice effectively in utility proceedings.

(c) During the period of the counsellor's employment and for a period of one year following the termination of employment, it shall be unlawful for any person employed as counsel to have a direct or indirect interest in any utility company regulated under the Public Utility Regulatory Act to provide legal services directly or indirectly to or be employed by any capacity by a utility company regulated under the Public Utility Regulatory Act, its parent, or its subsidiary companies, corporations, or cooperatives; but such person may otherwise engage in the private practice of law after the termination of employment as the counsellor.

(f) The Office of Public Utility Counsel:

(1) shall assess the impact of utility rate changes and other regulatory actions on residential consumers in the State of Texas and shall be an advocate in its own name of positions most advantageous to a substantial number of such consumers as determined by the counsellor;

(2) may appear or intervene as a matter of right as a party or otherwise on behalf of residential consumers, as a class, in all proceedings before the commission or the railroad commission;

(3) may appear or intervene as a matter of right as a party or otherwise on behalf of small commercial consumers, as a class, in all proceedings where it is deemed by the counsel that small commercial consumers are in need of representation.

(4) may initiate or intervene as a matter of right or otherwise appear in any judicial proceedings involving or arising out of any action taken by an administrative agency in a proceeding in which the counsel was authorized to appear;

(5) may have access as any party, other than staff, to all records gathered by the commission or the railroad commission under the authority of Subsection (a) of Section 29 of the Public Utility Regulatory Act;

(6) may obtain discovery of any nonprivileged matter which is relevant to the subject matter involved in any proceeding or petition before the commission;

(7) may represent individual residential and small commercial consumers with respect to their disputed complaints concerning utility services unresolved before the commission; and

(8) may recommend legislation to the legislature which in its judgment would positively affect the interests of residential and small commercial consumers.

(g) Nothing in this section shall be construed as in any way limiting the authority of the commission to represent residential or small commercial consumers.

(h) The appearance of the Public Counsel in any proceeding in no way precludes the appearance of other parties on behalf of residential ratepayers or small commercial consumers. The Public Counsel shall not be grouped with any other parties.

SECTION 17. Subsection (c), Section 6, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 91 lb, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) No application for permit shall be granted by the Commission until after a hearing nor shall any such permit be granted if the Commission shall be of the opinion that the proposed operation of any such contract carrier will impair the efficient public service of any authorized common carrier or common carriers then adequately serving the same territory[; provided, however, any person now lawfully operating as a Class "B" operator in this State who may desire to continue in the
business of a motor carrier shall file an application for a permit or certificate under the terms of this Act within thirty (30) days after the effective date hereof and it shall be the duty of the Commission to determine such applications forthwith and such applicants may, subject to the provisions of this Act and to the orders, rules, rates, and regulations of the Commission continue to operate as motor carriers pending the determination by the Commission of such application.

SECTION 18. Section 10, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. No application for a certificate of public convenience and necessity shall be considered by said Commission unless it be in writing and set forth the following facts:

(1) It shall contain the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(2) The complete route or routes over which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

(3) A proposed schedule of service and a schedule of rates to be charged between the several points or localities to be served.

(4) It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, upon which plat or maps shall be delineated the line or lines of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service; and shall point out the public necessity for the proposed service and what particulars the public convenience would be promoted by the institution of the proposed service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

The Commission, in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders, shall invite the opinion of the State Department of Highways and Public Transportation on the conditions of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic, and the Commission shall give due and proper consideration to the orders, regulations, ordinances or recommendations of the [Highway Commission of Texas] State Department of Highways and Public Transportation; provided, however, nothing herein contained shall be deemed to restrict the powers of the [Highway Commission] State Department of Highways and Public Transportation under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipality through or between which motor carriers operate.

SECTION 19. Section 4, Chapter 141, Acts of the 66th Legislature, Regular Session, 1979 (Article 5920-11, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. JURISDICTION. (a) The commission has exclusive jurisdiction over all surface coal mining and reclamation operations in the State of Texas.

(b) The commission has exclusive jurisdiction over iron ore and iron ore gravel mining and reclamation operations in the State of Texas, and the provisions of this Act apply to iron ore and iron ore gravel mining and reclamation operations to the extent that those provisions can be made applicable. The jurisdiction conferred by this subsection does not extend to:

(1) a mining or reclamation activity in progress on September 1, 1983; or

(2) a mining or reclamation activity confined to a single tract of land smaller than five acres.
SECTION 20. The Gas Utility Regulatory Act is enacted to read as follows:

ARTICLE I. SHORT TITLE, LEGISLATIVE POLICY, AND DEFINITIONS

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

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

Sec. 1.03. DEFINITIONS. In this Act:

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

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

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

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

5. “Railroad commission” or “commission” means the Railroad Commission of Texas.

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

7. “Affected person” means any gas utility affected by any action of the regulatory authority, any person or corporation whose utility service or rates are affected by any proceeding before the regulatory authority, or any person or corporation that is a competitor of a gas utility with respect to any service performed by the utility or that desires to enter into competition.
(8) "Affiliated interest" or "affiliate" means:
(A) any person or corporation owning or holding, directly or indirectly, five percent or more of the voting securities of a gas utility;
(B) any person or corporation in any chain of successive ownership of five percent or more of the voting securities of a gas utility;
(C) any corporation five percent or more of the voting securities of which is owned or controlled, directly or indirectly, by a gas utility;
(D) any corporation five percent or more of the voting securities of which is owned or controlled, directly or indirectly, by any person or corporation that owns or controls, directly or indirectly, five percent or more of the voting securities of any gas utility or by any person or corporation in any chain of successive ownership of five percent of such securities;
(E) any person who is an officer or director of a gas utility or of any corporation in any chain of successive ownership of five percent or more of voting securities of a gas utility;
(F) any person or corporation that the railroad commission, after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a gas utility, or over which a gas utility exercises that control, or that is under common control with a gas utility, that control being the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of another, whether that power is established through ownership or voting of securities or by any other direct or indirect means;
(G) any person or corporation that the railroad commission, after notice and hearing, determines is actually exercising such substantial influence over the policies and action of the gas utility in conjunction with one or more persons or corporations with which they are related by ownership or blood relationship, or by action in concert, that together they are affiliated with the gas utility within the meaning of this section, even though no one of them alone is so affiliated.

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

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

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

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

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

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

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

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

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

ARTICLE II. JURISDICTION

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

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

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

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

ARTICLE III. MUNICIPALITIES

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

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

Sec. 3.03. AUTHORITY OF GOVERNING BODY; COST REIMBURSEMENT. (a) The governing body of any municipality participating
in or conducting ratemaking proceedings shall have the right to select and engage
rate consultants, accountants, auditors, attorneys, engineers, or any combination
thereof, to conduct investigations, present evidence, advise and represent the
governing body, and assist with litigation or gas utility ratemaking proceedings
before any regulatory authority or in court. The gas utility engaged in those
proceedings shall be required to reimburse the governing body for the reasonable
costs of those services to the extent found reasonable by the applicable regulatory
authority.
(b) A municipality shall have standing in all cases before the railroad
commission, subject to the right of the railroad commission to consolidate that
municipality with other parties on issues of common interest, regarding the utility’s
rates and services within its corporate limits and shall be entitled to judicial review
of orders regarding those proceedings in accordance with Section 8.01 of this Act.

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

Sec. 3.05. APPEAL. (a) Any party to a rate proceeding before the governing
body of a municipality may appeal the decision of the governing body to the railroad
commission.
(b) Citizens of a municipality may appeal the decision of the governing body
in any rate proceeding to the railroad commission through the filing of a petition
for review signed by the lesser of 20,000 or 10 percent of the number of qualified
voters of such municipality.
(c) Ratepayers of a municipally owned gas utility outside the municipal limits
may appeal any action of the governing body affecting the rates of the municipally
owned gas utility through filing with the railroad commission a petition for review
signed by the lesser of 10,000 or 5 percent of the ratepayers served by the utility
outside the municipal limits. For purposes of this subsection each person receiving
a separate bill shall be considered as a ratepayer, but no person shall be considered
as being more than one ratepayer notwithstanding the number of bills received.
The petition for review shall be considered properly signed if signed by any person, or
spouse of any person, in whose name residential utility service is carried.
(d) The appeal process shall be instituted within 30 days of the final decision
by the governing body with the filing of a petition for review with the railroad
commission and the serving of copies on all parties to the original rate proceeding.
(e) The railroad commission shall hear the appeal de novo based on the test
year presented to the municipality, adjusted for known changes and conditions that
are measurable with reasonable accuracy, and by its final order, which shall be
entered not more than 120 days from the date the appeal is perfected, the railroad
commission shall fix such rates that the municipality should have fixed in the
ordinance from which the appeal was taken. In the event that the railroad
commission fails to enter its final order within 120 days from the date the appeal
is perfected, the schedule of rates proposed by the utility shall be deemed to have
been approved by the commission and effective upon the expiration of the 120-day
period. Any rates, whether temporary or permanent, set by the railroad commission
shall be prospective and observed from and after the applicable order of the railroad
commission, except interim rate orders necessary to effect uniform systemwide
rates.
ARTICLE IV. RECORDS, REPORTS, INSPECTIONS, RATES, AND SERVICES

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

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

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

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

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

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

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

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

2. establish forms for all reports;
(3) determine the time for reports and the frequency with which any reports are to be made;
(4) require that any reports be made under oath;
(5) require that a copy of any contract or arrangement between any gas utility and any affiliated interest be filed with it, and require a contract or arrangement of that type not in writing to be reduced to writing and filed with it;
(6) require that a copy of any report filed with any federal agency or any governmental agency or body of any other state be filed with it; and
(7) require that a copy of annual reports showing all payments of compensation (other than salary or wages subject to the withholding of federal income tax) to residents of Texas, or with respect to legal, administrative, or legislative matters in Texas, or for representation before the Texas Legislature or any governmental agency or body be filed with it.

Sec. 4.03. INSPECTIONS; EXAMINATION UNDER OATH; COMPELLING PRODUCTION OF RECORDS; INQUIRY INTO MANAGEMENT AND AFFAIRS. (a) Any regulatory authority, and when authorized by the regulatory authority, its counsel, agents, and employees, is entitled, at reasonable times and for reasonable purposes, to inspect and obtain copies of the papers, books, accounts, documents, and other business records, and to inspect the plant, equipment, and other property of any gas utility within its jurisdiction. The regulatory authority may examine under oath, or it may authorize the person conducting the investigation to examine under oath, any officer, agent, or employee of any gas utility in connection with the investigation. The regulatory authority may require, by order or subpoena served on any gas utility, the production within this state at the time and place it may designate, of any books, accounts, papers, or records kept by the gas utility outside the state, or verified copies in lieu thereof if the railroad commission so orders. Any gas utility failing or refusing to comply with the order or subpoena is in violation of this Act.
(b) A member, agent, or employee of the regulatory authority may enter the premises occupied by a gas utility to make inspections, examinations, and tests and to exercise any authority provided by this Act. A member, agent, or employee of the regulatory authority may act under this subsection only during reasonable hours and after giving reasonable notice to the utility. The gas utility is entitled to be represented when inspections, examinations, and tests are made on its premises. Reasonable time for the utility to secure a representative shall be allowed before commencing an inspection, examination, or test.
(c) The regulatory authority may inquire into the management and affairs of all gas utilities, and shall keep itself informed as to the manner and method in which the same are conducted.

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

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

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

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

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

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

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

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

1. Ascertain and fix just and reasonable standards, classifications, regulations, or practices to be observed and followed by any or all gas utilities with respect to the service to be furnished;
2. Ascertain and fix adequate and reasonable standards for the measurement of the quantity, quality, pressure, or other condition pertaining to the supply of the service;
3. Prescribe reasonable regulations for the examination and testing of the service and for the measurement thereof; and
4. Establish or approve reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters, instruments, and equipment used for the measurement of any service of any gas utility.

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

Sec. 4.10. EXAMINATION AND TEST OF EQUIPMENT. (a) The regulatory authority may examine and test any meter, instrument, or equipment used for the measurement of any service of any gas utility, may enter any premises occupied by any gas utility for the purpose of making the examinations and tests and exercising any power provided for in this Act, and may set up and use on those premises any apparatus and appliances necessary for those purposes. The gas utility is entitled to be represented at the making of the examinations, tests, and inspections. The gas utility and its officers and employees shall facilitate the examinations, tests, and inspections by giving every reasonable aid to the regulatory authority and any person or persons designated by the regulatory authority for the performance of those duties.
(b) Any consumer or user may have any meter or measuring device tested by the utility once without charge, after a reasonable period to be fixed by the regulatory authority by rule, and at shorter intervals on payment of reasonable fees fixed by the regulatory authority. The regulatory authority shall declare and establish reasonable fees to be paid for other examining and testing of the meters and other measuring devices on the request of the consumer. If the test is requested to be made within the period of presumed accuracy as fixed by the regulatory authority since the last test of the same meter or other measuring device, the fee to be paid by the consumer or user at the time of this request shall be refunded to the consumer or user if the meter or measuring device is found unreasonably defective or incorrect to the substantial disadvantage of the consumer or user. If the consumer's request is made at a time beyond the period of presumed accuracy fixed by the regulatory authority since the last test of the same meter or measuring device, the utility shall make the test without charge to the consumer or user.

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

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

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

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

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

Sec. 5.03. FIXING OVERALL REVENUES. In fixing the rates of a gas utility the regulatory authority shall fix its overall revenues at a level that will permit the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public over and above reasonable and necessary operating expenses.

Sec. 5.04. FAIR RETURN; BURDEN OF PROOF. (a) The regulatory authority may not prescribe any rate that will yield more than a fair return on the adjusted value of the invested capital used and useful in rendering service to the public.
(b) In any proceeding involving any proposed change of rates, the burden of proof to show that the proposed change, if proposed by the utility, or that the existing rate, if it is proposed to reduce the rate, is just and reasonable is on the gas utility.

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

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

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

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

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

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

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

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

Sec. 5.08. STATEMENT OF INTENT TO CHANGE RATES; MAJOR CHANGES; HEARING; SUSPENSION OF RATE SCHEDULE; DETERMINATION OF RATE LEVEL. (a) No utility may make changes in its rates except by filing a statement of intent with the regulatory authority having original jurisdiction at least 35 days prior to the effective date of the proposed change. The statement of intent shall include proposed revisions of tariffs and schedules and a statement specifying in detail each proposed change, the effect the proposed change is expected to have on the revenues of the company, the classes and numbers of utility consumers affected, and other information required by the regulatory authority's rules and regulations. A copy of the statement shall be mailed or delivered to the appropriate officer of each affected municipality, and notice shall be given by publication in conspicuous form and by placing a notice to the public of the proposed change once in each week for four successive weeks in a newspaper having general circulation in each county containing territory affected by the proposed change and to such other affected persons as required by the regulatory authority's rules and regulations. However, notwithstanding the above, instead of the publication of newspaper notice contemplated above, a gas utility may provide notice to the public in areas outside the limits of municipalities, and within the limits of municipalities with a population of less than 2,500 according to the most recent federal census by mailing such notice by United States mail, postage prepaid, to the billing address of each directly affected customer, or by including the notice in such customer's bill in a conspicuous form.

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

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

(d) Pending the hearing and decision, the local regulatory authority, after delivery to the affected utility of a statement in writing of its reasons therefor, may suspend the operation of the schedule for a period not to exceed 90 days beyond the date on which the schedule of rates would otherwise go into effect, and the railroad commission may suspend the operation of the schedule for a period not to exceed 150 days beyond the date on which the schedule would otherwise go into effect. If the regulatory authority does not make a final determination concerning any schedule of rates prior to expiration of the period or periods of suspension, the schedule is considered to have been approved by the regulatory authority. This approval is subject to the authority of the regulatory authority thereafter to continue a hearing in progress. The regulatory authority may in its discretion fix temporary rates for any period of suspension under this subsection. During the suspension by the regulatory authority as provided by this subsection, the rates in force when the suspended schedule was filed continue in force unless the regulatory authority establishes a temporary rate. The regulatory authority shall give preference to the hearing and decision of questions arising under this subsection over all other questions pending before it and shall decide the questions as speedily as possible.

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

(f) If, after hearing, the regulatory authority finds the rates to be unreasonable or in any way in violation of any provision of law, the regulatory authority shall determine the level of rates to be charged or applied by the utility for the service in question and shall fix the same by order to be served upon the utility. Those rates are thereafter to be observed until changed as provided by this Act.

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

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

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

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

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

ARTICLE VI. SALE OF PROPERTY AND MERGERS

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

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

Sec. 6.03. LOANS TO STOCKHOLDERS: REPORT. No gas utility may loan money, stocks, bonds, notes, or other evidences of indebtedness to any corporation or person owning or holding directly or indirectly any stock of the gas utility unless the gas utility reports the transaction to the railroad commission within a reasonable time.

Sec. 6.04. GAS RESERVE RIGHTS: APPROVAL OF SALE, CONVEYANCE, ETC. No gas utility may sell, convey, bank, or assign rights to gas reserves to a utility or, where not in conflict with federal law, to an interstate pipeline without prior approval of the railroad commission.

ARTICLE VII. RELATIONS WITH AFFILIATED INTERESTS

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

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

ARTICLE VIII. JUDICIAL REVIEW

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

ARTICLE IX. VIOLATIONS AND ENFORCEMENT

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

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

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

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

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

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

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

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

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

ARTICLE X. MISCELLANEOUS PROVISIONS

Sec. 10.01. COMPLAINT BY ANY AFFECTED PERSON. Any affected person may complain to the regulatory authority in writing setting forth any act or thing done or omitted to be done by any gas utility in violation or claimed violation
May 10, 1983  HOUSE JOURNAL  1877

of any law which the regulatory authority has jurisdiction to administer, or of any order, ordinance, rule, or regulation of the regulatory authority.

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

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

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

SECTION 21. Sections 3(c), (g), and (i), Public Utility Regulatory Act (Article 1446h, Vernon's Texas Civil Statutes), are amended to read as follows:

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

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

(2) the conveyance, transmission, or reception of communications over a telephone system; provided that no person or corporation not otherwise a public utility within the meaning of this Act shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system; and provided further that nothing in this Act shall be construed to apply to telegraph services, services of specialized communications common carriers not providing local exchange telephone service, television stations, radio stations, community antenna television services, or radio-telephone services that may be authorized under the Domestic Public Land Mobile Radio Service or Rural Radio Service rules of the Federal Communications Commission, other than such radio-telephone services provided by wire-line telephone companies;

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

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

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

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

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

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

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

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

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

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

SECTION 22. Sections 27(a), (b), and (d), Public Utility Regulatory Act (Article 1446c, Vernon’s Texas Civil Statutes), are amended to read as follows:

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

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

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

SECTION 23. Section 29(a), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

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

SECTION 24. Section 49(b), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

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

SECTION 25. Sections 3(f), 19, and 66, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), are repealed.

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

Sec. 20. Nothing in this article shall be construed to confer on the commission [or railroad commission] power or jurisdiction to regulate or supervise the rates or service of any utility owned and operated by any municipality within its boundaries either directly or through a municipally owned corporation, or to affect or limit the
power, jurisdiction, or duties of the municipalities that have elected to regulate and
supervise public utilities within their boundaries, except as provided in this Act.
Sec. 21. Nothing in this Act shall be construed as in any way limiting the
rights and powers of a municipality to grant or refuse franchises to use the streets
and alleys within its limits and to make the statutory charges for the use thereof,
but no provision of any franchise agreement shall limit or interfere with any power
conferred on the commission [or railroad commission] by this Act. If a municipality
performs regulatory functions under this Act, it may make such other charges as
may be provided in the applicable franchise agreement, together with any other
charges permitted by this Act.
Sec. 25. The commission [or the railroad commission] may advise and assist
municipalities upon request in connection with questions and proceedings arising
under this Act. Such assistance may include aid to municipalities in connection with
matters pending before the commission [or the railroad commission] or the courts,
or before the governing body of any municipality, including making members of
the staff available as witnesses and otherwise providing evidence to them.
Sec. 26. (a) Any party to a rate proceeding before the governing body of a
municipality may appeal the decision of the governing body to the commission [or
railroad commission].
(b) Citizens of a municipality may appeal the decision of the governing body
in any rate proceeding to the commission [or railroad commission] through the
filing of a petition for review signed by the lesser of 20,000 or 10 percent of the
number of qualified voters of such municipality.
(c) Ratepayers of a municipally owned [gas or] electric utility outside the
municipal limits may appeal any action of the governing body affecting the rates
of the municipally owned [gas or] electric utility through filing with the commission
[or railroad commission, as appropriate] petition for review signed by the lesser of
10,000 or 5 percent of the ratepayers served by such utility outside the municipal
limits. For purposes of this subsection each person receiving a separate bill shall be
considered as a ratepayer. But no person shall be considered as being more than one
ratepayer notwithstanding the number of bills received. Such petition for review
shall be considered properly signed if signed by any person, or spouse of any such
person, in whose name residential utility service is carried.
(d) The appeal process shall be instituted within 30 days of the final decision
by the governing body with the filing of a petition for review with the commission
[or railroad commission] and copies served on all parties to the original rate
proceeding.
(e) The commission [or railroad commission] shall hear such appeal de novo
and by its final order shall fix such rates as the municipality should have fixed in
the ordinance from which the appeal was taken.
Sec. 28. (a) The commission [and the railroad commission] shall have the
power to:
(1) require that public utilities report to it such information relating to
themselves and affiliated interests both within and without the State of Texas as it
may consider useful in the administration of this Act;
(2) establish forms for all reports;
(3) determine the time for reports and the frequency with which any reports
are to be made;
(4) require that any reports be made under oath;
(5) require that a copy of any contract or arrangement between any public
utility and any affiliated interest be filed with it. It may require any such contract
or arrangement not in writing to be reduced to writing and filed with it;
(6) require that a copy of any report filed with any federal agency or any
governmental agency or body of any other state be filed with it; and
require that a copy of annual reports showing all payments of compensation (other than salary or wages subject to the withholding of federal income tax) to residents of Texas, or with respect to legal, administrative, or legislative matters in Texas, or for representation before the Texas Legislature or any governmental agency or body.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The attorney general shall institute suit on his own initiative or at the request of, in the name of, and on behalf of the commission [or railroad commission], in a court of competent jurisdiction to recover the penalty under this section.
Sec. 75. If any person fails to comply with any lawful order of the commission [or railroad commission] or with any subpoena or subpoena duces tecum or if any witness refuses to testify about any matter on which he may be lawfully interrogated, the commission [or railroad commission] may apply to any court of competent jurisdiction to compel obedience by proceedings for contempt.

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

SECTION 27. Rules and orders of the railroad commission adopted under the Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) and in effect September 1, 1983, remain in effect until changed under the Gas Utility Regulatory Act.

SECTION 28. Sections 2 and 3, Article 6050, Revised Statutes, are amended to read as follows:

Sec. 2. Provided, however, that the act or acts of transporting, delivering, selling or otherwise making available natural gas for fuel, either directly or indirectly, to the owners of irrigation wells or the sale, transportation or delivery of natural gas for any other direct use in agricultural activities shall not be construed within the terms of this law as constituting any person as a "gas utility," "public utility," or "utility" as hereinabove defined so as to make such person subject to the jurisdiction, control and regulation of the Commission as a gas utility, unless the person also distributes gas within the limits of a municipality or delivers gas to the boundary of a municipality for resale in the municipality.

Sec. 3. The natural gas made available under the provisions of this Act shall be used exclusively for pumping water for farm and other agricultural purposes in order for the person furnishing such natural gas to qualify for the exemption provided by Section 2 of this article [be exempt from the provisions of said Article 6050 of the Revised Civil Statutes of Texas of 1925]. The provisions of this Act shall be considered only as cumulative of other laws and shall not have the effect of repealing or amending any substantive or statutory law except as herein specifically provided.

SECTION 29. Subsection (b), Section 4, Article 6050, Revised Statutes, is amended to read as follows:

(b) A person who makes deliveries or sales for lease use, compressor fuel, processing plant fuel, or similar uses; deliveries or sales pursuant to lease or right-of-way agreements; or deliveries or sales in or within the vicinity of the field where produced or at a processing plant outlet does not become a "gas utility," "public utility," or "utility" by virtue of such transaction. However, the terms "gas utility," "public utility," and "utility" include a pipeline which transmits or distributes to other end users of gas, or which makes city-gate deliveries for local distribution, but does not include a person that qualifies for the exemption provided [covered] by Section 2 of this article.

SECTION 30. (a) Before the 31st day after the effective date of this Act, a utility that transports, delivers, or sells natural gas for fuel for irrigation wells or any other direct use in agricultural activities and that is made subject to regulation by this Act shall file with the railroad commission an application for approval of its rates. The commission shall handle the application according to its usual rate-setting procedures.

(b) This Act does not authorize the railroad commission to adopt safety standards for gas pipeline facilities or the transportation of gas other than those authorized by Article 6053-1, Revised Statutes.

SECTION 31. Title 3, Natural Resources Code, is amended by adding Chapter 114 to read as follows:
CHAPTER 114. OIL TANKER VEHICLES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 114.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.
(2) "Liquid hydrocarbons" means unrefined oil or condensate and refined oil or condensate to be blended with unrefined liquid hydrocarbons.
(3) "Transporter" means each gatherer, storer, or other handler of liquid hydrocarbons who moves or transports those liquid hydrocarbons by truck or other motor vehicle.
(4) "Oil tanker vehicle" means a motor vehicle licensed for highway use on a public highway or used on a public highway:
   (A) that is equipped with, carrying, pulling, or otherwise transporting an assembly, compartment, tank, or other container that is used for transporting, hauling, or delivering liquids; and
   (B) that is being used to transport liquid hydrocarbons on a public highway.
(5) "Public highway" means a way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, even if the way or place is temporarily closed for the purpose of construction, maintenance, or repair.
(6) "Lease" means a well producing oil, gas, or oil and gas, and any group of contiguous wells producing oil, gas, or oil and gas of any number operated as a producing unit.
(7) "Facility" means any place used to store, process, refine, reclaim, dispose of, or treat liquid hydrocarbons.
(8) "Cargo manifest" means one or more documents that together contain the information required by Section 114.012 of this code.

Sec. 114.002. APPLICABILITY OF CHAPTER. This chapter does not apply to:

(1) a common carrier as defined by and regulated under Chapter 111 of the Natural Resources Code; or
(2) the movement by a person or entity by motor vehicle of salt water, brine, sludge, drilling mud, and other liquid or semiliquid material arising out of or incidental to drilling for or producing oil or gas if:
   (A) the commission has authorized the person or entity to move or transport the material and the material being moved or transported contains less than seven percent liquid hydrocarbons by volume; or
   (B) the person or entity is not moving or transporting the material for hire and the material being moved or transported contains less than seven percent liquid hydrocarbons by volume.

[Sections 114.003-114.010 reserved for expansion]

SUBCHAPTER B. CARGO MANIFEST

Sec. 114.011. CARGO MANIFEST REQUIRED. A cargo manifest must be carried in each oil tanker vehicle transporting liquid hydrocarbons on a public highway in this state and must be presented on request for inspection as provided by Section 114.101 of this code.

Sec. 114.012. CONTENTS OF CARGO MANIFEST. For each load of liquid hydrocarbons loaded onto and transported by an oil tanker vehicle, the cargo manifest must include:

(1) an identification of the lease or facility from which the liquid hydrocarbons were removed which must include:
   (A) the lease or facility name; and
   (B) the name of the operator of the lease or facility;
(2) the total quantity of liquid hydrocarbons removed from the lease or facility and loaded onto the oil tanker vehicle;
(3) the date and hour when the liquid hydrocarbons were removed from the lease or facility and loaded onto the oil tanker vehicle;
(4) the identity of the transporter which must include:
   (A) the company or individual transporter’s name and address;
   (B) the oil tanker vehicle driver’s name; and
   (C) a unique number for the oil tanker vehicle that for a truck tractor and semitrailer type oil tanker vehicle must include unique vehicle numbers for both truck tractor and semitrailer, and
(5) the intended point of destination for the liquid hydrocarbons, including the name of the receiving facility.

Sec. 114.013. COPY OF CARGO MANIFEST LEFT AT LEASE OR FACILITY. (a) A copy of the cargo manifest must be left at the lease or facility from which the liquid hydrocarbons were removed or delivered to the lease or facility operator, his agent, or his representative.

(b) The requirements of this section may be met by leaving a separate document at the lease or facility from which the liquid hydrocarbons were removed or delivering to the lease or facility operator a separate document that includes information required under Subdivisions (1)-(3) and Subdivisions (4)(A) and (B), Section 114.012, of this code.

(c) If more than one load of liquid hydrocarbons are removed from a single tank or other container of liquid hydrocarbons within a period of 24 consecutive hours, Subdivisions (2) and (3), Section 114.012, of this code may be met for purposes of this section by a separate document that includes:
   (1) the total quantity of liquid hydrocarbons removed;
   (2) the date and hour the first load was removed; and
   (3) the date and hour the last load was removed.

(d) If the operator of a facility requires that a transporter leave at the facility or deliver to the operator a document other than the transporter’s cargo manifest, a transporter may meet the requirements of this section by leaving those specified documents at an agreed location or delivering the document to the operator.

Sec. 114.014. CARGO MANIFEST RECORDS. After the delivery of all liquid hydrocarbons in an oil tanker vehicle is completed, the cargo manifest must be maintained in the records of the transporter for a period of not less than two years from the date the liquid hydrocarbons are removed from the oil tanker vehicle.

[Sutions 114.015-114.100 reserved for expansion]

SUBCHAPTER C. ENFORCEMENT

Sec. 114.101. AUTHORITY TO EXAMINE CARGO MANIFESTS. The commission, its designated agents or employees, or a peace officer may examine a cargo manifest, whether it is on an oil tanker vehicle or in the records of the transporter, under circumstances where the examination is a lawful attempt to determine whether this chapter is being violated.

Sec. 114.102. CRIMINAL OFFENSES. (a) A person commits an offense if the person knowingly or intentionally:
(1) fails to leave a copy of the cargo manifest or other document as required under Section 114.013 of this code at the lease or facility from which the liquid hydrocarbons were removed or fails to deliver a copy of the cargo manifest or other document as required under Section 114.013 of this code to the operator of the lease or facility, his agent, or his representative;
(2) operates an oil tanker vehicle without a cargo manifest as required by this chapter;
(3) fails to maintain cargo manifest records as required under Section 114.014 of this code; or
(4) forges or falsifies a cargo document or documents required by this chapter or exhibits a cargo document or documents knowing that those documents are forged or falsified.

(b) An offense under this section is a felony of the third degree.
(c) It is an affirmative defense to prosecution under Subdivision (1), (2), or (3), Subsection (a), of this section that the person charged with the offense provides the information required by Section 114.012 of this code.
(d) A penalty imposed for violation of this chapter is in addition to any civil or administrative penalty or sanction authorized by Sections 85.042 and 85.201 of this code or any other provision of law.

SECTION 32. Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 91 lb, Vernon's Texas Civil Statutes), is amended by adding Section 22c to read as follows:

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

SECTION 33. Article 6445a, Revised Statutes, is amended to read as follows:

Art. 6445a. APPLICATION OF SUNSET ACT. The Railroad Commission of Texas is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is abolished effective September 1, 1995.

SECTION 34. (a) Section (a), Article 6447b, Revised Statutes, takes effect September 1, 1984.
(b) Section (b), Article 6447b, Revised Statutes, takes effect September 1, 1985.
(c) Except as provided by Subsections (a) and (b) of this section, this Act takes effect September 1, 1983.

SECTION 35. 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.

SENATE AMENDMENT NO. 2
Amend HB 593 by striking Sec. 5b(a) of Sec. 12 of HB 593 and inserting in lieu thereof the following:

Sec. 5b. (a) A person transporting eligible agricultural commodities for compensation or hire, for the original producer or grower, or producers' or growers' cooperative association, between any point of production, processing, or storage, or from any point of production, processing or storage to any point of first manufacture, is not required to obtain a certificate of public convenience and necessity from the Commission or to comply with tariffs or orders of the Commission governing rates and charges to be offered, demanded or received for such service if the person holds an agricultural permit issued by the Commission.

(1) The Commission shall, by regulation or as a contested matter properly before the Commission in an enforcement proceeding, define the terms "agricultural commodities," "point of production," "point of processing," "point of storage," and "point of first manufacture." These terms shall include, in addition to such other commodities or points as the Commission shall designate:

(A) Agricultural commodities: cotton, livestock, grain, fresh fruits and fresh vegetables.
(B) Point of production: farms and ranches at which the agricultural commodities were grown.
(C) Point of processing: cotton gins, dryers, and animal auction barns.

(D) Point of storage: grain and rice elevators, compresses, and warehouses.

(2) The holder of an agricultural permit shall comply with all Commission regulations concerning safety, insurance, and otherwise, except to the extent such regulations are made expressly inapplicable herein. The holder shall be subject to administrative and other sanctions for failure to comply with applicable laws and regulations to the same extent as other motor carriers.

(3) The Commission shall, in implementing the provisions of this subsection, take into consideration its powers and duties to administer and enforce the Motor Carrier Act, and shall prescribe such regulations for operations under authority of agricultural permits as the Commission deems necessary in the interest of the shipping and receiving public, provided that rulemaking authority granted under this paragraph shall be used to accomplish the overall purpose of this subsection.

[A person transporting eligible agricultural commodities in their natural state for compensation or hire is not required to obtain a certificate of convenience and necessity if he holds a seasonal agricultural license issued by the Commission. A person holding a seasonal agricultural license may transport eligible agricultural commodities only for the place where the commodities are produced and harvested to the first processor. A holder of a seasonal agricultural license may also transport cotton and cottonseed from a cotton gin to the next processor or point of storage. This transportation may not exceed a distance of seventy-five (75) miles, and must be in intrastate commerce. Agricultural commodities in their natural state include these commodities produced and harvested on a farm which must be transported to storage or first processor, but do not include the manufactured products of agricultural commodities, not do they include livestock, milk, wool, mohair, or timber in its natural state.]

SENATE AMENDMENT NO. 3

Amend Floor Amendment No. 10 to CSHB 593 as follows:
(1) On page 1, line 3, strike "and small commercial".
(2) On page 2, line 18, strike "and small commercial".
(3) On page 2, line 23, strike "and small commercial".
(4) On page 2, line 26, strike "or small commercial".
(5) On page 2, line 29, strike "or small commercial".

SENATE AMENDMENT NO. 4

Amend HB 593 as follows:
After the phrase "cotton gins," in Sec. 5b(a)(1)(C) insert the phrase "rice mills," before the word "dryers".

SENATE AMENDMENT NO. 5

Amend the Committee Substitute for House Bill 593 by striking the present language in Section 14(c), (3) and substituting the following in lieu thereof:

"(3) corporations or persons, their lessees, trustee, or receivers, or trustees appointed by any court whatsoever, insofar as they own, control, operate, or manage motor propelled taxicabs designed for carrying no more than five passengers; permits, licenses, or certificates issued prior to June 1, 1983, would not be affected by the provisions of this exclusion. Such taxicabs are motorbuses only when they operate to or from an airport established pursuant to Chapter 114, Acts 50th Legislature, 1947, as amended (Article 46d-14, Vernon's Texas Civil Statutes)."
SENATE AMENDMENT NO. 6

Amend the CSHB 593 by deleting Section 16A and adding Section 9.07.

SECTION 9.07. (a) The independent Office of Public Utility Counsel is hereby established to represent the interests of residential and small commercial consumers.

(b) The chief executive of the Office of Public Utility Counsel is the public utility counsel, hereinafter referred to as counsellor. The counsellor is appointed by the governor with the advice and consent of the senate to a two-year term that expires on February 1 of the final year of the term.

(c) The counsellor shall employ such lawyers, economists, engineers, consultants, statisticians, accountants, clerical staff, and other employees as he or she deems necessary to carry out the provisions of this section. All employees shall receive such compensation as is fixed by the legislature from the assessment imposed by Section 78 of the Public Utility Regulatory Act.

(d) The counsellor shall be a resident of Texas and admitted to the practice of law in this state who has demonstrated a strong commitment and involvement in efforts to safeguard the rights of the public and possesses the knowledge and experience necessary to practice effectively in utility proceedings.

(e) During the period of the counsellor’s employment and for a period of one year following the termination of employment, it shall be unlawful for any person employed as counsellor to have a direct or indirect interest in any utility company regulated under the Gas Utility Regulatory Act to provide legal services directly or indirectly to or be employed in any capacity by a utility company regulated under the Gas Utility Regulatory Act, its parent, or its subsidiary companies, corporations, or cooperatives, but such person may otherwise engage in the private practice of law after the termination of employment as the counsellor.

(f) The Office of Public Utility Counsel:

(1) shall assess the impact of utility rate changes on residential consumers in the State of Texas and shall be an advocate in its own name of positions most advantageous to a substantial number of such consumers as determined by the counsellor;

(2) may appear or intervene as a matter of right as a party or otherwise on behalf of residential consumers, as a class, in all proceedings before the railroad commission;

(3) may appear or intervene as a matter of right as a party or otherwise on behalf of small commercial consumers, as a class, in all rate proceedings where it is deemed by the counsel that small commercial consumers are in need of representation;

(4) may initiate or intervene as a matter of right or otherwise appear in any judicial proceedings involving or arising out of any action taken by an administrative agency in a proceeding in which the counsel was authorized to appear;

(5) may have access as any party, other than staff, to all records gathered by the railroad commission under the authority of Subsection (a) of Section 4.03 of the Gas Utility Regulatory Act;

(6) may obtain discovery of any nonprivileged matter which is relevant to the subject matter involved in any proceeding or petition before the commission;

(7) may represent individual residential and small commercial consumers with respect to their disputed complaints concerning utility services unresolved before the railroad commission; and

(8) may recommend legislation to the legislature which in its judgment would positively affect the interests of residential and small commercial consumers.
(g) Nothing in this section shall be construed as in any way limiting the authority of the railroad commission to represent residential or small commercial consumers.

(h) The appearance of the Public Counsel in any proceeding in no way precludes the appearance of other parties on behalf of residential ratepayers or small commercial consumers. The Public Counsel shall not be grouped with any other parties.

SENATE AMENDMENT NO. 7

Amend F.A. No. 10 by striking Sections 9.07(f)(1), (2) and (3) and substituting in lieu thereof the following and renumbering the remaining subsections:

(1) The Office of Public Utility Counsel:

(1) may appear or intervene as a party or otherwise representing residential consumers as a class in appeals to the railroad commission only at the written request of an affected municipality's governing body, in which case it will represent the residential consumers of requesting municipalities as a class.

SENATE AMENDMENT NO. 8

Amend Floor Amendment No. 10 to CSHB 593 on page 32, line 10 by striking Subsection (4) and inserting in lieu thereof the following:

(4) may initiate or intervene as a matter of right or otherwise appear in any judicial proceedings involving or arising out of any action taken by the Railroad Commission in a proceeding in which the counsel was a party.

SENATE AMENDMENT NO. 9

Amend CSHB 593 by striking Subsection (b), page 2, line 32 in its entirety and relettering subsequent subsections to read as follows:

SENATE AMENDMENT NO. 10

Amend CSHB 593 by striking "and" on line 18, page 37; "are not included" on line 19, page 37; "unless the transporter, deliverer, or seller also distributes gas within the limits of a municipality or delivers gas to the boundary of a municipality for resale in the municipality" on lines 21 through 24, page 37; "unless the person also distributes gas within the limits of a municipality or delivers gas to the boundary of a municipality for resale in the municipality" on lines 5, 6 and 7, page 86; and Section 30(a) and 30(b), lines 4 through 14, page 87.

SENATE AMENDMENT NO. 11

Amend Section 7 of CSHB 593, Section 113.082(E), retail and wholesale dealers: by substituting "an amount not to exceed $750.00" for "an amount not to exceed $1,000" to read as follows: (line 12)

"an amount not to exceed $750.00"

SENATE AMENDMENT NO. 12

Amend Subsection (3) of Section 14 of CSHB 593 as follows:

1. Strike the phrase "or its suburb" where it appears on lines 17 and 18 on Page 10.

2. Strike the sentence appearing on lines 20, 21 and 22 on Page 10.

SENATE AMENDMENT NO. 13

Amend the caption to conform to the body of the bill.
HB 2333 ON SECOND READING

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

HB 2333, A bill to be entitled An Act relating to missing children investigations by law enforcement agencies.

The bill was read second time.

Representative Keller offered the following amendment to the bill:

Amend HB 2333 by renumbering Sections 3 and 4 as Sections 4 and 5 and by adding a new Section 3 to read as follows:

SECTION 3. INFORMATION TO FEDERAL BUREAU OF INVESTIGATION. Each law enforcement agency shall provide to the Federal Bureau of Investigation any information that would assist in the location or identification of any missing child who has been reported to the agency as missing.

The amendment was adopted without objection.

HB 2333, as amended, was passed to engrossment.

HB 790 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 790.

CSHB 790

A BILL TO BE ENTITLED
AN ACT

relating to the collection, deposit, and disposition of certain court costs collected in criminal cases.

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

SECTION 1. Section 9B(f), Chapter 546, Acts of the 59th Legislature, Regular Session, 1965 (Article 4413(29aa), Vernon's Texas Civil Statutes), is amended to read as follows:

(f) On receipt, the custodians of the municipal and county treasuries may deposit the funds collected under this section in interest-bearing accounts. The custodians shall keep records of the amount of funds on deposit collected under this section, and shall on or before the last day of the month following each calendar quarter period of three months remit to the Comptroller of Public Accounts the funds collected under this section during the preceding quarter. Each city and county collecting funds under this section is hereby authorized to retain ten percent (10%) of the funds collected by them as a service fee for said collection. The city or county may also retain all interest accrued on the funds. All funds collected shall be subject to audit by the Comptroller of Public Accounts. All funds expended shall be subject to audit by the State Auditor. Additionally, all funds collected or expended shall be subject to audit by the Governor's Division of Planning Coordination.

SECTION 2. Section 14(c), Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) On receipt, the custodian of a municipal or county treasury may deposit the funds collected under this section in interest-bearing accounts. The custodian shall keep records of the amount of funds on deposit collected under this section and shall remit to the comptroller of public accounts before the 10th day of each month the funds collected under this section during the preceding month. The city and the county may retain five percent of the funds collected under this
SECTION 3. Section 7, Code of Criminal Procedure, Article 1083, Criminal Justice Planning Fund, is amended to read as follows:

(7) On receipt, the [The] custodians of the municipal and county treasuries with whom funds collected under this Act are entrusted [deposited] may deposit the funds collected under this section in interest-bearing accounts. The custodians shall keep records of the amount of funds collected under this Act which are on deposit with them, and shall on or before the last day of the month following each calendar quarter period of three months remit to the Comptroller of Public Accounts funds collected under this Act during the preceding quarter. The municipal and county treasuries are hereby authorized to retain ten percent (10%) of funds collected under this Act as a service fee for said collection. The city or county may also retain all interest accrued on the funds.

SECTION 4. This Act takes effect September 1, 1983.

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 790 was read second time and was passed to engrossment.

HB 1653 - POSTPONED

Representative E. F. Lee moved that consideration of HB 1653 be postponed until Monday, May 16, at 2 p.m.

The motion prevailed without objection.

HB 128 ON SECOND READING

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

HB 128, A bill to be entitled An Act relating to various offenses involving the wearing of masks or disguises; providing penalties.

The bill was read second time.

Representative Toomey offered the following amendment to the bill:

Amend HB 128 as follows:

Page 2, line 2, between the word “disguise” and the period add “or under circumstances where social custom sanctioned the wearing of a mask or disguise in celebration of a traditional holiday.”

The amendment was adopted without objection.

HB 128, as amended, was passed to engrossment. (Ceverha, Danburg, Hury, Khoury, Eckels, Patterson, Kuempel, and Wieting recorded voting no)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

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

SCR 32, SCR 33, SB 122, SB 221, SB 246, SB 319, SB 341, SB 346, SB 392, SB 393, SB 394, SB 420, SB 438, SB 501, SB 510, SB 517, SB 558, SB 619, SB 644, SB 655, SB 697, SB 749, SB 769, SB 778, SB 817, SB 861, SB 897, SB 1004, SB 1050, SB 1110, SB 1210, SB 1221, SB 1224, SB 1227, SB 1267, SB 1268
HB 287 ON SECOND READING

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

HB 287, A bill to be entitled An Act relating to designating United States Highway 83 as the Texas Vietnam Veterans Memorial Highway.

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

HB 2297 ON SECOND READING

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

HB 2297, A bill to be entitled An Act relating to the creation of the County Courts at Law Nos. 7, 8, and 9 of Bexar County.

The bill was read second time.

Representative Madia offered the following amendment to the bill:

Amend HB 2297 as follows:

(1) On page 1, line 6, insert "effective January 1, 1985" between "created" and the period.

(2) On page 9, strike lines 14-18 and substitute the following:

SECTION 15. INITIAL ELECTION OF JUDGES. At the general election in 1984, the qualified voters of Bexar County shall elect a judge for each of the courts created by this Act for a two-year term beginning January 1, 1985.

The amendment was adopted without objection.

HB 2297, as amended, was passed to engrossment. (W. Martinez recorded voting no)

HB 58 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 58.

CSHB 58

A BILL TO BE ENTITLED
AN ACT
relating to tests for the determination of the possibility of paternity.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 SECTION 1. Section 13.02, Family Code, is amended to read as follows:

Sec. 13.02. PRETRIAL PROCEEDINGS: LABORATORY [BLOOD] TESTS. (a) When the respondent appears in a paternity suit, the court shall order the mother, alleged father, and child to submit to the taking of blood, serum, or tissue for the purpose of one or more blood tests. If the appearance is before the birth of the child, the court shall order the taking of blood, serum, or tissue to be made as soon as medically practical after the birth.

(b) An order issued under this section is enforceable by contempt, except that if the petitioner is the mother or the alleged father and refuses to submit to the blood test, the court shall dismiss the suit. If the respondent is the mother or the alleged father and refuses to submit to the blood test, the fact of refusal may be introduced as evidence as provided in Section 13.06(d) of this code.
In this chapter, "blood test" includes any medically reliable blood, serum or tissue laboratory tests for the comparison of genetic indicators or markers used to establish or disprove the possibility of paternity, including, but not limited to Human Leucocyte Antigen (H.L.A.) tests.

SECTION 2. Section 13.03, Family Code, is amended to read as follows:

Sec. 13.03. PRETRIAL PROCEEDINGS: APPOINTMENT OF EXPERTS. (a) The court may appoint one or more experts qualified as examiners of blood types or other genetic indicators to make the blood tests. The court may determine the number and qualifications of the experts and shall prescribe the arrangements for conducting the tests.

The court may fix a reasonable fee for each court-appointed examiner and may require the fee to be paid by any or all of the parties or by the Texas Department of Human Resources, if the department is a party of the suit, in the amount and in the manner directed, or the court may tax all or part or none of the fee as costs in the suit.

(c) A party may employ other qualified examiners of blood tests. The court may order blood, serum, or tissue samples made available to these examiners if requested.

SECTION 3. Section 13.06, Family Code, is amended to read as follows:

Sec. 13.06, EVIDENCE AT TRIAL (a) Unless otherwise permitted by the court on a showing of good cause, a party may call to testify on the results of the blood tests only those experts who testified at the pretrial conference.

(b) A witness called by a party at the trial is that party’s witness.

(c) If the blood tests show the possibility of the alleged father’s paternity, the court shall [may] admit this evidence if offered at the trial.

(d) Evidence of a refusal by the respondent to submit to a blood test is admissible to show only that the alleged father is not precluded from being the father of the child.

SECTION 4. 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 58 was read second time and was passed to engrossment.

HB 805 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 805.

CSHB 805

A BILL TO BE ENTITLED

AN ACT

relating to the offense of delivery of a controlled substance or marijuana to minors or primary or secondary school students.

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

SECTION 1. Section 4051, Texas Controlled Substances Act (Article 4476-15, Vernon’s Texas Civil Statutes), as added by Section 1, Chapter 276, Acts of the 67th Legislature, Regular Session, 1981, is amended to read as follows:

Sec. 4051. (a) Except as authorized by this Act, a person commits an aggravated offense if the person knowingly or intentionally delivers a controlled substance listed in Penalty Group 1, 2, or 3 or knowingly or intentionally delivers marijuana and the person delivers the marijuana or controlled substance to a person:
who is 17 years of age or younger; or
(2) that the actor knows or believes intends to deliver the controlled
substance or marijuana to a person 17 years of age or younger; or
(3) who is enrolled in an elementary or secondary school; or
(4) that the actor knows or believes intends to deliver the controlled
substance or marijuana to a person who is enrolled in an elementary or secondary
school.

SECTION 2. (a) The change in law made by this Act applies only to an
offense committed on or after the effective date of this Act. For purposes of this
section, an offense is committed before the effective date of this Act if any element
of the offense occurs before the effective date.
(b) An offense committed before the effective date of this Act is covered by
the law in effect when the offense was committed, and the former law is continued
in effect for this purpose.

SECTION 3. This Act takes effect September 1, 1983.

SECTION 4. 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 805 was read second time and was passed to engrossment.

HB 1611 ON SECOND READING

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

HB 1611, A bill to be entitled An Act relating to the punishment for habitual
felony offenders.

The bill was read second time.

Representative L. Evans offered the following amendment to the bill:

Amend HB 1611 as follows:
On page 1, line 7, delete the word “mandatory” and substitute in its place the
word “possible”. On page 1, line 9, delete the word “mandatory”.

The amendment was adopted without objection.

HB 1611, as amended, was passed to engrossment. (Toomey, Eckels, Short,
and Kuempel recorded voting no)

HB 2061 ON SECOND READING

The speaker laid before the house on its second reading and passage to
engrossment, the complete committee substitute for HB 2061.

CSHB 2061

A BILL TO BE ENTITLED
AN ACT
relating to the establishment and operation of Gateway State Park and to the
establishment of the Gateway State Park Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Chapter 22, Parks and Wildlife Code, is amended by adding
Subchapter R to read as follows:

SUBCHAPTER R. GATEWAY STATE PARK

Sec. 22.241. ESTABLISHMENT. (a) The Gateway State Park is established
under the jurisdiction of the department.

(a) The department shall develop as a state park all of the land accepted and acquired under Chapter 542, Acts of the 66th Legislature, Regular Session, 1979.

(b) The department shall lease the park to the Gateway State Park Board established by this subchapter.

Sec. 22.242. GATEWAY STATE PARK BOARD. (a) The Gateway State Park Board is composed of the following nine members:

1. the mayor of Fort Worth or his designee;
2. the mayor of Arlington or his designee;
3. the county judge of Tarrant County or his designee;
4. the chairman of the governing board of the Trinity River Authority or his designee;
5. a member of the house of representatives residing in Tarrant County to be appointed by the speaker;
6. a member of the senate residing in Tarrant County to be appointed by the lieutenant governor;
7. a Fort Worth city council member selected by the Fort Worth city council;
8. a county commissioner from Tarrant County to be appointed by the Tarrant County Commissioners Court; and
9. the chairman of the Fort Worth Streams and Valley Committee.

(b) Service on the board is an additional function of the other public office or position under which the person qualifies for service on the board.

(c) Members of the board receive no compensation for performing their duties under this subchapter.

(d) Members of the board shall meet as often as necessary to perform their duties under this subchapter.

Sec. 22.243. POWERS AND DUTIES OF BOARD. (a) The board shall lease Gateway State Park from the department and shall operate and maintain the park as a state park.

(b) The board may:

1. set and charge reasonable fees for entrance to the park and for any other services as appropriate;
2. grant concessions and leases in the park;
3. hire personnel necessary to perform its duties under this subchapter;
4. establish and enforce rules and regulations for use of the park;
5. lease portions of the park and contract for mineral, agricultural, or any other purposes; and
6. retain all fees, charges, rentals, concession proceeds, and other revenues generated in the park from any source for use in the park for operation, maintenance, policing, or capital improvements.

SECTION 2. Subsection (c), Section 1, and Section 4, Chapter 542, Acts of the 66th Legislature, Regular Session, 1979, are repealed.

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 2061 was read second time.

Representative Agnich offered the following amendment to CSHB 2061:
Amend CSHB 2061 as follows:
(1) On page 3, line 9, strike "and Section 4."
(2) On page 3, line 10, strike "arc" and substitute "is".

The amendment was adopted without objection.

CSHB 2061, as amended, was passed to engrossment. (Toomey and Pennington recorded voting no)

HB 733 ON SECOND READING

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

HB 733, A bill to be entitled An Act relating to resignation by a professional employee of a school district.

The bill was read second time.

(Speaker pro tempore in the chair)

Representative Heflin offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

On page 2, line 15, of HB 733, change the ; to a ";" and add "unless the employee can demonstrate he had reasonable cause to resign."

Committee Amendment No. 1 was adopted without objection.

HB 733, as amended, was passed to engrossment.

HB 1112 ON SECOND READING

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

HB 1112, A bill to be entitled An Act relating to the amount of performance and payment bonds required for certain public works contractors.

The bill was read second time.

Representative Leonard offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend HB 1112 by deleting the dollar amount "$50,000" and reinserting the amount "$25,000" on line 23 of page 1.

Representative Leonard moved to table Committee Amendment No. 1.

The motion to table prevailed.

Representative Ragsdale offered the following amendment to the bill:

Amend HB 1112 by adding a new SECTION 2 to read as follows and renumbering the remaining sections:

SECTION 2. Any political subdivision covered by this Act may, when entering into any formal contract calling for or requiring the expenditure or payment of less than $50,000 and more than $25,000, provide in the contract that no money will be paid to the contractor until the completion and acceptance of the work by the political subdivision.

The amendment was adopted without objection.
HB 1112, as amended, was passed to engrossment. (Fox recorded voting no)

HB 2186 - POSTPONED

Representative Keller moved that consideration of HB 2186 be postponed until Friday, May 13, at 10 a.m.

The motion prevailed without objection.

HB 831 ON SECOND READING

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

HB 831, A bill to be entitled An Act relating to a tuition exemption for high-ranking graduates of a public junior college.

The bill was read second time and was passed to engrossment. (Fox recorded voting no)

HB 1277 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1277.

CSHB 1277

A BILL TO BE ENTITLED
AN ACT
relating to an administrative penalty for violation of laws, safety standards, and regulations relating to transportation of gas and gas pipeline facilities.

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

SECTION 1. Title 102, Revised Statutes, is amended by adding Article 6053-2 to read as follows:

Art. 6053-2. ADMINISTRATIVE PENALTY. (a) A person who violates Article 6053-1, Revised Statutes, or safety standards or regulations relating to transportation of gas and gas pipeline facilities adopted under that article may be assessed a civil penalty by the Railroad Commission of Texas.

(b) The penalty may not exceed $10,000 for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the railroad commission shall consider the person's history of previous violations of this article, the seriousness of the violation, and any hazard to the health or safety of the public.

(d) A civil penalty may be assessed only after the person charged with a violation described under Section (a) of this article has been given an opportunity for a public hearing.

(e) If a public hearing has been held, the railroad commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(f) If appropriate, the railroad commission shall consolidate the hearings with other proceedings under this article.

(g) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the railroad commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(h) The railroad commission shall then issue an order requiring that the penalty be paid.
On the issuance of an order finding that a violation of this article has occurred, the railroad commission shall inform the person who is found in violation of the amount of the penalty within 30 days.

Within the 30-day period immediately following the day on which the order is issued, the person assessed the penalty shall pay the penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the amount to the railroad commission for placement in an escrow account.

If through administrative or judicial review of the penalty it is determined that no violation occurred or that the amount of the penalty should be reduced, the railroad commission shall, within the 30-day period immediately following that determination, remit the appropriate amount to the person, with interest at the prevailing United States Department of the Treasury rate.

Failure to forward the money to the railroad commission within the time provided by Section (j) of this article results in a waiver of all legal rights to contest the violation or the amount of the penalty.

Civil penalties owed under this article may be recovered in a civil action brought by the attorney general at the request of the railroad commission.

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 1277 was read second time and was passed to engrossment.

HB 1029 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1029.

CSHB 1029

A BILL TO BE ENTITLED
AN ACT

relating to standards and tests for the content of nonfat solids in milk and milk products.

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

SECTION 1. Subchapter D, Chapter 13, Agriculture Code, is amended by adding Section 13.2071 to read as follows:

Sec. 13.2071. NONFAT SOLIDS. (a) The department shall establish standards for the content of nonfat solids in milk and milk products.

(b) The department shall approve the type of tests necessary to determine whether a sample of milk or milk products meets the applicable standard for nonfat solids content.

(c) Standards established and tests approved under this section may not be more stringent than the minimum specified in standards and tests for the content of nonfat solids in milk and milk products established and approved by the federal government.

SECTION 2. Section 13.208, Agriculture Code, is amended to read as follows:

Sec. 13.208. DEPARTMENT SUPERVISION. (a) The department may enforce the correct operation of butterfat and nonfat solids tests performed in this state.

(b) At the time and place and to the extent the department considers necessary, the department shall sample, inspect, test, and analyze milk or milk products transported, sold, or offered or exposed for sale in this state in order to
determine compliance with the provisions of and standards adopted under this subchapter.

(c) The department is entitled to enter any public or private premises, including a creamery, cheese factory, or other place where milk, cream, or dairy products are handled, during regular business hours, for the purpose of securing samples and checking tests performed.

(d) If the department discovers a violation of a provision of or a standard adopted under this subchapter, the department shall give prompt notice of the violation to the person who transported, sold, or offered or exposed for sale the milk or milk product.

SECTION 3. Section 13.210(a), Agriculture Code, is amended to read as follows:

(a) If the department has reason to believe that any lot of milk or milk products is in violation of a provision of or a standard adopted under this subchapter, the department may issue and enforce a written or printed order to stop the sale of the lot. The department shall present the order to the owner or custodian of the lot. The person receiving the order may not sell the lot until discharged by a court under Subsection (b) of this section or until the department finds that the lot is in compliance with the provisions of and standards adopted under this subchapter.

SECTION 4. The title of Subchapter D, Chapter 13, Agriculture Code, is amended to read as follows:

SUBCHAPTER D. MEASUREMENT OF BUTTERFAT AND NONFAT SOLIDS CONTENT OF DAIRY PRODUCTS

SECTION 5. This Act takes effect September 1, 1983.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 1029 was read second time.

Representative B. Gibson offered the following amendment to CSHB 1029:

Amend CSHB 1029 on page 2, between lines 12 and 13, by adding Subsections (e) and (f) to amended Section 13.208 to read as follows:

(e) It shall be the responsibility of the sample collector to collect representative samples. Samples of milk and milk products may be taken at any time prior to final delivery to the consumer. Whenever a butterfat or nonfat solids test is below the minimum standards, an investigation shall be made to determine the cause, and the cause shall be corrected. Additional samples shall be taken from each subsequent lot of milk processed and tested for minimum standards of butterfat or nonfat solids and no milk or milk product shall be offered for sale until it is shown by subsequent samples to meet the minimum standard for the defined product.

(f) Samples shall be analyzed at an officially designated laboratory. All sampling procedures and required laboratory examinations shall be in substantial compliance with the latest edition of "Standard Methods for the Examination of Dairy Products" of the American Public Health Association and the latest edition of "Official Methods of Analysis of the Association of Official Analytical Chemists." Such procedures, including the certification of sample collectors, and examinations shall be evaluated in accordance with Evaluation of Milk Laboratories, 1978 Recommendations of the United States Public Health Service/Food and Drug Administration.

The amendment was adopted without objection.
CSHB 1029, as amended, was passed to engrossment. (Fox, Russell, Heflin, Kuempel, Toomey, Pennington, Short, and Oliveira recorded voting no)

HB 773 ON SECOND READING

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

HB 773, A bill to be entitled An Act relating to prohibiting the discharge of waste and sewage into drainage ditches in Harris County.

The bill was read second time.

Representative Toomey offered the following amendment to the bill:

Amend HB 773 on page 1, line 11, by striking the period after the word “roads” and adding the following:
when such waste is not being discharged in accordance with a permit issued by the Texas Department of Water Resources.

The amendment was adopted without objection.

HB 773, as amended, was passed to engrossment.

HB 444 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 444.

CSHB 444

A BILL TO BE ENTITLED
AN ACT

relating to making a change of address on a driver’s license.

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

SECTION 1. Section 20, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon’s Texas Civil Statutes), is amended to read as follows:

Sec. 20. (a) Whenever any person after applying for or receiving an operator’s license, commercial operator’s license, chauffeur’s license, identification certificate, or handicap or health condition certificate shall move from the address named in such application or in the license or certificate issued to him or when the name of the licensee is changed by marriage or otherwise, such person shall within thirty (30) days thereafter notify the Department in writing of his old and new addresses or of such former and new names, of the number of any license or certificate then held by him, and such person shall apply for a duplicate license or certificate as set out in Section 14.

(b) If a person holding a license or certificate issued under this Act moves from the address on the license or certificate, instead of applying for a duplicate license under Section 14 of this Act, the person may:

(1) submit a written notice to the Department containing the information required by Subsection (a) of this section; and
(2) request that the Department furnish the person with a sticker or certificate to apply to or carry with the person’s license or certificate indicating that a change of address has been filed with the Department.

(c) On receipt of a request for a sticker or certificate under Subsection (b)(2) of this section on a form approved by the Department and payment of a fee of Three Dollars ($3), the Department shall deliver a sticker or certificate to the requestor. The Department shall make approved forms available in public places in addition to driver’s license offices.
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 444 was read second time.
Representative Danburg offered the following amendment to CSHB 444:
Amend CSHB 444 by:
On page 2, line 10, strike “September 1, 1983” and substitute January 1, 1984.
The amendment was adopted without objection.
CSHB 444, as amended, was passed to engrossment.

HB 299 ON SECOND READING

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

HB 299, A bill to be entitled An Act relating to classifying officers commissioned by private institutions of higher education as peace officers.
The bill was read second time and was passed to engrossment.

HB 2334 ON SECOND READING

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

HB 2334, A bill to be entitled An Act relating to voluntary fingerprinting for the purpose of maintaining a record for future identification.
The bill was read second time.
Representative Keller offered the following amendment to the bill:
Amend HB 2334 by amending Section 3 (page 1, lines 18-21) to read as follows:
SECTION 3. DEFINITIONS. In this Act:
(1) “Child” means a person under 25 years of age.
(2) “Law enforcement agency” means a police department of a city in this state, the sheriff of a county in this state, and the Texas Department of Public Safety.
The amendment was adopted without objection.
HB 2334, as amended, was passed to engrossment. (Toomey recorded voting yes)

HB 160 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 160.

CSHB 160

A BILL TO BE ENTITLED
AN ACT
relating to the required elements of disclosure for political advertising.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 245(A), Texas Election Code (Article 14.09, Vernon’s Texas Election Code), is amended to read as follows:
(A) It is unlawful for any person knowingly to enter into a contract or transaction to print, publish, or broadcast any political advertising which does not disclose thereon that it is political advertising and which does not state thereon the name [and address of] of the agent who personally entered into the contract or transaction with the printer, publisher, or broadcaster, or the person represented by such agent. A violation of this provision shall constitute a Class A misdemeanor. However, in the event the political advertisement conveys the impression that it emanates from a source other than its true source for the purpose of injuring any candidate or influencing the vote in any election, the candidate, campaign treasurer, assistant campaign treasurer or any other person purchasing or contracting for the furnishing of such political advertisement in support of or in opposition to any candidate or measure, who knowingly violates this subsection shall be guilty of a felony of the third degree.

SECTION 2. Political advertising governed by a contract or transaction entered into before the effective date of this Act is subject to Section 245(A), Texas Election Code (Article 14.09, Vernon’s Texas Election Code), as it existed on the date the contract or transaction was entered into, and that law is continued in effect for that purpose.

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 160 was read second time.

Representative Staniswalis offered the following amendment to CSHB 160:

Amend CSHB 160 by deleting the word “agent” on line 12 of page 1 and replacing it with the word “person”.

The amendment was adopted without objection.

Representative Patronella offered the following amendment to CSHB 160:

Amend CSHB 160 on page 1, line 14, by inserting after “agent” and before the period “and, in the case of advertising that is printed or published, the address of the agent or the person represented by the agent”.

(Speaker in the chair)

Representative Staniswalis moved to table the Patronella amendment.

The motion to table was lost.

The amendment was adopted.

CSHB 160, as amended, was passed to engrossment.

LEAVE OF ABSENCE GRANTED

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

D. Lee on motion of Oliveira.

HB 1794 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1794.
CSHB 1794

A BILL TO BE ENTITLED
AN ACT

relating to the exemption of certain volunteer fire department vehicles from compulsory liability insurance requirements.

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

SECTION 1. Section 1, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), is amended by adding Subdivision 14 to read as follows:

14. "Volunteer Fire Department" means a company, department, or association whose members receive no or nominal compensation and that is organized for the purpose of answering fire alarms and extinguishing fires or answering fire alarms, extinguishing fires, and providing emergency medical services.

SECTION 2. Subsection (b), Section 1A, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The following vehicles are exempt from the requirement of Subsection (a) of this section:

(1) vehicles exempt by Section 33 of this Act;

(2) any vehicles for which the title is held in the name of a volunteer fire department;

(3) [deleted]

(4) vehicles for which a bond or a certificate of deposit of money or securities in the minimum amount of Twenty-five Thousand Dollars ($25,000) is on file with the Department;

(5) vehicles that are self-insured under Section 34 of this Act;

(6) vehicles that are both registered to and operated by persons who are not residents of this State, except for those vehicles that are primarily operated in this State; and

(7) implements of husbandry.

SECTION 3. Section 1A, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) Subsection (b) of this section may not be construed to exempt a person who is operating a vehicle for which title is held in the name of a volunteer fire department from the liability insurance requirements of this Act.

SECTION 4. 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 1794 was read second time and was passed to engrossment. (C. Smith, Schlueter, Fox, Gilley, Russell, and Bush recorded voting no)

MESSAGE FROM THE SENATE

Austin, Texas, May 10, 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:
HB 1376 by Schlueter, relating to possession limits for red drum and speckled sea trout, to penalties for engaging in business as a commercial finfish fisherman without a license, and to penalties.

HB 1406 by Wright, relating to the possession and display of certain documents relating to the origin and status of redfish and speckled sea trout; providing penalties.

SCR 110 by Parker, commending A. "Bum" Phillips by recognizing May 12, 1983, as "Bum Phillips Day."

HCR 139 by Tejeda, recognizing Tejano Conjunto Music Week in Texas.

HCR 156 by Oliveira, declaring the month of August to be Texas Child Support Enforcement Month.

HCR 178 by Hall of Webb, commending Gaby Canizales of Laredo.

HCR 186 by Kuempel, congratulating Mr. Benno C. Heinemeyer.

HCR 187 by Kuempel, congratulating Mr. and Mrs. Kermit Altwin.

HCR 188 by Blanton, honoring William Roy Samuels, Jr.

HCR 193 by Hurry, commending Mrs. Rosalynn Carter.

HCR 196 by Hall of Webb, in memory of Sam Yates.

HCR 234 by Ceverha, commending the Honorable Raymond D. Noah, Mayor of Richardson.

HCR 235 by Ceverha, commending the Honorable Tom Ewbank, retiring mayor pro tem of Richardson.

Respectfully,
Betty King
Secretary of the Senate

HB 1480 ON SECOND READING

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

HB 1480, A bill to be entitled An Act relating to the requirement that a housing authority conduct a public hearing before obtaining any governmental permits for a housing project.

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

HB 755 ON SECOND READING

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

HB 755, A bill to be entitled An Act relating to the authority of counties to contract for the destruction of certificates, bonds, interest coupons, or other evidences of indebtedness issued and paid by the counties.

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

HB 796 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 796.

CSHB 796

A BILL TO BE ENTITLED
AN ACT
relating to the creation of the tertiary care fund and to the provision of tertiary care services.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. CREATION OF TERTIARY CARE FUND. The tertiary care fund is established in the state treasury. Each county shall pay into the fund on or before January 31st of each year a sum of $10,000 if the county population is 100,000 or less, $25,000 if the county population is more than 100,000 but less than 500,000, or $50,000 if the county population is 500,000 or more, according to the most recent federal census. The Texas Department of Health shall administer the fund and may include in the tertiary care fund any other funds appropriated to it for that purpose.

SECTION 2. ELIGIBILITY. The Texas Department of Health shall provide for compensation to authorized tertiary care facilities from the tertiary care fund for medical and surgical tertiary care services covered by this Act that are provided to persons who meet the financial eligibility requirements established under this Act. Reimbursement shall be made on a pro rata basis established annually by the department on the basis of the amount in the fund compared to the estimated eligible services to be reimbursed during the year.

SECTION 3. DEFINITION OF TERTIARY CARE FACILITY. "Tertiary care facility" means a facility certified by the Texas Department of Health as providing the services listed in Section 4 of this Act, a facility that has been verified as a trauma center by the American College of Surgeons, or a facility that provides services listed in Section 4 of this Act and that has been verified by the respective American College governing the service provided.

SECTION 4. DEFINITION OF TERTIARY CARE SERVICES. "Tertiary care services" means any of the following services provided in a tertiary care facility:

1. services provided by burn centers;
2. services provided by neonatology level III units;
3. pediatric surgery;
4. trauma surgery;
5. neurosurgery;
6. cardiothoracic and vascular surgery;
7. organ transplants, except kidney transplants or experimental transplants;
8. electrophysiology cardiac catheterization;
9. services provided in life-threatening dermatologic illnesses;
10. muscular-skeletal reconstructive surgery and limb reimplantation; and
11. services to persons with high risk pregnancy complications.

SECTION 5. POWERS AND DUTIES OF DEPARTMENT OF HEALTH.

(a) The Texas Department of Health may:

1. take censuses, make surveys, determine the need of individuals for tertiary care services, and determine the best way for providing those services;
2. procure medical and surgical services for eligible individuals; and
3. take any other action necessary to accomplish the purposes of this Act.

(b) Only physicians licensed to practice medicine in this state may be employed to provide diagnosis and treatment under this Act.

(c) If the department determines an emergency exists and other transportation is not available, the department shall provide transportation necessary to properly handle eligible recipients.

(d) The department shall adopt rules necessary to implement this Act.

(e) The fees or charges for providing tertiary care services under this Act may not exceed the average charges for the same services rendered to patients in the hospitals and facilities approved under this Act.

SECTION 6. RIGHT TO CARE AND TREATMENT. (a) An individual is not entitled to tertiary care services provided for by this Act unless the Texas Department of Health determines that the individual and every person who has a
legal obligation to provide care and treatment for the individual are financially unable to provide for care and treatment.

(b) An individual who is financially able to bear a portion of the expenses of tertiary care services provided for by this Act shall pay for or reimburse the department for a portion of the cost of the services provided.

(c) If an individual is unable to bear any of the expense of tertiary care services provided for by this Act, a person who has a legal obligation to provide care and treatment for the individual and who is financially able to bear a portion of the expenses shall pay for or reimburse the department for a portion of the cost of the services.

(d) The department shall adopt a schedule to govern the proportional payment or reimbursement of the cost of tertiary care services provided for by this Act.

(e) At least one physician regularly practicing under the laws of this state and within the scope of the Act under which the physician is licensed must certify that he has examined an individual applying for tertiary care services under this Act and recommends that the individual be treated under this Act.

(f) This Act does not authorize an employee, agent, or representative of the department, or any other official agent, to enter any home over the objection of the person who has legal responsibility to provide care and treatment for an individual receiving services under this Act, nor does this Act limit the power of that person over that individual.

SECTION 7. ELIGIBILITY FOR OTHER BENEFITS; REIMBURSEMENT OF DEPARTMENT. (a) In this section, “other benefit” means a benefit, other than a benefit provided under this Act, to which an individual is entitled for the payment of the costs of medical care and treatment or burial, and includes:

(1) benefits available under:
   (A) an insurance policy, group health plan, or prepaid medical care plan;
   (B) Title XVIII or Title XIX of the Social Security Act, as amended;
   (C) the Veterans Administration;
   (D) the Civilian Health and Medical Program of the Uniformed Services;
   (E) workers’ compensation or any other compulsory employers’ insurance program; or
   (F) a public program created by federal law, state law, or the ordinances or rules of a municipality or political subdivision of the state, except those services provided by a city or county hospital, a joint city-county hospital, a county hospital authority, or a hospital district to a person who does not reside in the city or county in which the hospital is located; or

(2) benefits available from a cause of action for medical expenses to an individual applying for or receiving services from the department, and benefits from a settlement or judgment based on that cause of action, if the expenses are related to the need for tertiary care services provided under this Act.

(b) An individual is not eligible to receive services provided by this Act to the extent that the individual or any other person who has a legal obligation to support the individual is eligible for some other benefit that would pay for the services or part of the services provided by this Act.

(c) An applicant for or recipient of services provided by this Act shall inform the Texas Department of Health at the time of application or at any time during eligibility and receipt of services of any other benefit to which the individual for whom the application is made or to which any other person who has a legal obligation to support the applicant or recipient may be entitled.

(d) An individual who receives services provided by this Act and any person who has a legal obligation to support an individual who has received services that
are covered by some other benefit shall reimburse the department to the extent of the services provided when the other benefit is received.

(e) The department may recover the expenditure for services provided under this Act from a person who does not reimburse the department as required by Subsection (d) of this section or from any third party upon whom there is a possible legal obligation to pay other benefits and to whom notice of the department's interest in the other benefits has been given. At the request of the commissioner of health, the attorney general may bring suit in the appropriate court of Travis County on behalf of the department. The court may award attorney's fees, court costs, and interest accruing from the date the department provides the service to the date the department is reimbursed in a judgment in favor of the department.

SECTION 8. MODIFICATION, SUSPENSION, OR TERMINATION OF SERVICES. (a) After notice to persons affected, the Texas Department of Health may, for good cause, modify, suspend, or terminate tertiary care services to any individual who has been found to be eligible for services or who is receiving services from the department.

(b) The department shall adopt rules prescribing the criteria for departmental action authorized by this section.

SECTION 9. 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.

C SHB 796 was read second time.

Representative Jackson offered the following amendment to C SHB 796:

Amend CSHB 796 as follows:

(1) On page 1, line 13, insert the following after “purpose.”:

“Except for funds deposited to the credit of the tertiary care fund, this Act does not require the State to expend State funds for the provision of tertiary care services covered by this Act.”

(2) On page 7, insert a new Section 9 to read as follows and renumber the succeeding sections accordingly:

“SECTION 9. This Act does not require any entity to provide services other than those required by law.”

The amendment was adopted without objection.

Representative Geistweidt offered the following amendment to CSHB 796:

Amend CSHB 796 by striking lines 7 through 11 and substituting the following:

“pay into the fund on or before January 31st of each year a sum equal to the county’s population according to the most recent federal census multiplied by twenty cents ($0.20) but not to exceed a total of $50,000. The Texas Department of Health”

The amendment was adopted without objection.

A record vote was requested.

CSHB 796, as amended, was passed to engrossment by (Record 344): 80 Yeas, 56 Nays, 2 Present, not voting.

Yeas — Armbrister; Barrientos; Barton, E.; Blanton; Cary; Cavazos; Cervera; Colbert; Collazo; Coody; Criss; Crockett; Danburg; Delco; Denton; Edwards; Emmett; English; Evans, L.; Finnell; Gamez; Gandy; Garcia, A.; Garcia, M.;
The speaker laid before the house on its third reading and final passage,

**SB 911 ON THIRD READING**
(Keller - House Sponsor)

The bill was read third time and was passed.

On motion of Representative Keller and by unanimous consent, the caption of SB 911 was ordered amended to conform to the body of the bill.

**SB 826 ON THIRD READING**
(Emmett - House Sponsor)

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

**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 third time and was passed.

**SB 151 ON THIRD READING**
(C. Evans - House Sponsor)

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

**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 I, 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 third time and was passed. (C. Smith recorded voting present—not voting)

On motion of Representative C. Evans and by unanimous consent, the caption of SB 151 was ordered amended to conform to the body of the bill.

**SB 100 ON THIRD READING**

(Schlueter - House Sponsor)

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

**SB 100**, A bill to be entitled An Act relating to the 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 third time.

Representative Schlueter offered the following amendment to the bill:

Amend SB 100 on page 6, lines 13 and 14 by striking “in United States Treasury bills” and substituting “as provided by Article 2525, Revised Statutes”.

The amendment was adopted without objection.

A record vote was requested.

SB 100, as amended, was passed by (Record 345): 139 Yeas, 0 Nays, 3 Present, not voting.

**Yeas** - Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Buchanan; Burnett; Bush; Cain; Carricker; Cary; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connolly; Coody; Craddock; Criss; Crockett; Danburg; Davis; DeLay; Delco; Denton; Eckels; Edwards; Ekenburg; Emmett; English; Evans, C.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavri; Geistweidt; Gibson, B.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hofin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Kubiak; Kuepmeil; Laneey; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Mester; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polombo; Presnal; Price; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shear; Short; Simpson; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Vowell; Wallace; Watson; Whaley; Wieten; Willis; Wolens; Word; Wright.

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

Absent, Excused — Lee, D.

Absent — Bomer; Evans, L.; Gibson, J.; Khoury; Lee, E. F.; Waldrop; Wilson.
On motion of Representative Schluter and by unanimous consent, the caption of SB 100 was ordered amended to conform to the body of the bill.

SB 149 ON THIRD READING
(Messer - House Sponsor)

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

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 third time.

Representative Russell offered the following amendment to the bill:

Amend SB 149 as amended by adding after Section 10 the following Section 11 and renumbering the subsequent sections accordingly.

Section 10. The Texas Savings and Loan Act (Article 852a, Vernon's Texas Civil Statutes) is amended by adding the following section:

Section 2.5, INCORPORATION TO TAKE OVER BUSINESS OF AN EXISTING ASSOCIATION. (a) Application for a charter for a savings and loan association for the sole purpose of purchasing the assets, assuming the liabilities (other than its liability to stockholders as such) and continuing the business of any association deemed by the Commissioner to be in an unsafe condition, (hereinafter referred to as the Reorganizing Association) may be made to the Commissioner.

(b) The application for such a charter shall consist of such data and information as the Commissioner may require, or that may be required by duly promulgated rules and regulations of the Commissioner and the Savings and Loan Section of the Finance Commission of Texas. The capitalization of such an association shall be in an amount set by the Commissioner sufficient to carry out the purposes for which the charter is requested.

(c) The provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) shall not apply to such an application.

(d) If the Commissioner finds that the business of the Reorganizing Association can be effectively continued under the proposed charter, that the reorganization is in the best interest of the savers, depositors, creditors, and stockholders, if any, of the Reorganizing Association, and the public in general, he shall state his findings in writing and issue under his official seal, a certificate of incorporation, whereupon the proposed association shall be a corporate body, and a continuation of the Reorganizing Association subject to all its liabilities, obligations, duties and relations, save and except its liability to stockholders as such, and may exercise all the powers of a savings and loan association under the laws of this state.

The amendment was adopted without objection.

SB 149, as amended, was passed. (C. Smith recorded voting present-not voting)
On motion of Representative Messer and by unanimous consent, the caption of SB 149 was ordered amended to conform to the body of the bill.

**SB 294 ON THIRD READING**
(C. Evans - House Sponsor)

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

**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 342-201a 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 third time and was passed. (A. Smith recorded voting no; C. Smith present-not voting)

On motion of Representative C. Evans and by unanimous consent, the caption of SB 294 was ordered amended to conform to the body of the bill.

**SB 405 ON THIRD READING**
(Coody - House Sponsor)

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

**SB 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, 3.13, 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), (5), Subsections (a) and (b), Section (6), and Sections (7) and (8), Article 3.15; Sections (1) and (5), 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), (b), and (f), 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 5069-51.03A, 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).
The bill was read third time.

Representative Messer offered the following amendment to the bill:

Amend **SB 405** on third reading on page 41 by striking line 8 and substituting the following:

(b) Section (1), Article 2.02B, Title 79, Revised Statutes (Article 5069-2.02B, Vernon’s Texas Civil Statutes), as added by Section 5 of this Act, takes effect September 1, 1985.

The amendment was adopted without objection.

A record vote was requested.

**SB 405**, as amended, was passed by (Record 346): 143 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Bliant; Bomer; Buchanan; Burnett; Cain; Carricker; Cary; Cavazos; Cervera; Clark; Clemons; Colbert; Collazo; Connelly; Coody; Craddick; Crockett; Danburg; Davis; DeLay; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Finnell; Fox; Gandy; Garcia, A.; Garcia, M.; Gavin; Geisweidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Helfin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hurst; Jackson; Keller; Kemp; Khoury; Kubik; Kuempel; Laney; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patroneeta; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Price; Ragland; Rangel; Robinson; Rometti; Rudd; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stites; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Vowell; Wallace; Watson; Whaley; Wieting; Willis; Wolens; Word; Wright.

Nay — Bush.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Lee, D.

Absent — Criss; Jones; Waldrop; Wilson.

On motion of Representative Coody and by unanimous consent, the caption of **SB 405** was ordered amended to conform to the body of the bill.

**SB 295 ON THIRD READING**

(Schlueter - House Sponsor)

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

**SB 295**, A bill to be entitled An Act relating to the continuation, composition, qualifications, powers and duties, and compensation of the Finance Commission of Texas; amending Chapter I, The Banking Code of 1943, as amended (Article 342-101 et seq., Vernon's Texas Civil Statutes), by amending Articles 3, 3a, 4, 5, 6, 7, 9, and 12 and adding Articles 6A, 11A, and 14A; amending Chapter II by amending Section (h), Article 5 (Article 342-205, Vernon's Texas Civil Statutes); amending Section 8.13, Texas Savings and Loan Act, as amended (Article 852a, Vernon's Texas Civil Statutes); and amending Title 79, Revised Statutes, as amended, by amending Section (2), Article 2.02 and Section (7), Article 2.03.
The bill was read third time and was passed. (C. Smith recorded voting present-not voting)

On motion of Representative Schluter and by unanimous consent, the caption of SB 295 was ordered amended to conform to the body of the bill.

**SB 355 ON SECOND READING**
(Sutton - House Sponsor)

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

**SB 355**, A bill to be entitled An Act relating to the board of trustees of independent school districts located on military reservations; amending Subsection (c), Section 11.28, Texas Education Code.

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

**HB 1020 WITH SENATE AMENDMENTS**

Representative Polumbo called up with senate amendments for consideration at this time.

**HB 1020**, A bill to be entitled An Act relating to nomination for and election to the office of county school trustee in certain counties.

On motion of Representative Polumbo, the house concurred in the senate amendments to **HB 1020**.

**HB 1020 - TEXT OF SENATE AMENDMENTS**

**SENATE AMENDMENT NO. 1**

Amend House Bill 1020 by deleting Subsection (a) of SECTION 3 and substituting the following:

**SECTION 3.** (a) Each position on the board of county school trustees in a county with a population of two million or more shall be filled at the general election for state and county officers to be held November 6, 1984. The initial terms of the trustees elected from commissioners precincts 2 and 4 expire December 31, 1986. The initial terms of the trustees elected from commissioners precincts 1 and 3 and of one of the trustees elected at large expire December 31, 1988. The initial terms of the remaining two trustees elected at large expire December 31, 1990. The trustees elected at large shall draw lots to determine which terms they serve.

**SENATE AMENDMENT NO. 2**

Amend the caption to conform to the body of the bill.

**HR 368 - ADOPTED**

Representative Carriker moved that all necessary rules be suspended to take up and consider at this time, **HR 368**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Carriker:

**HR 368**, Congratulating Faith Davis, Hope Brock, and Charity Lawson.

The resolution was adopted without objection.

On motion of Representative Wieting, the names of all the members of the house were added to **HR 368** as signers thereof.
HR 370 - ADOPTED

Representative Berlanga moved that all necessary rules be suspended to take up and consider at this time, HR 370.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Berlanga:

HR 370

WHEREAS, With the end of the 67th Legislature, the Honorable Bill Clayton ended an illustrious eight-year tenure as speaker of the house of representatives; and

WHEREAS, This accomplished and well-respected legislator made history as the first state representative ever to hold the speaker's position for four consecutive terms; and

WHEREAS, Recognized for his exemplary work with regional and national governmental organizations, this knowledgeable lawmaker was first elected to the Texas House of Representatives in 1962; his service as a strong and effective legislator spans 20 years; and

WHEREAS, Under the motivational force of his leadership, legislation was enacted to reform state tax laws and to promote more efficient state government; and

WHEREAS, An inspiration to all who have known him throughout the years, this dynamic and articulate statesman has made an indelible mark on the legislative process, and his exceptional accomplishments and public service are deserving of special and permanent recognition; now, therefore, be it

RESOLVED, That the House of Representatives of the 68th Legislature of the State of Texas hereby authorize placement of a bust of former Speaker Bill Clayton in the chamber of the house of representatives; and, be it further

RESOLVED, That an official copy of this resolution be prepared for the Honorable Bill Clayton as a memento of this honor and an expression of esteem from the Texas House of Representatives.

The resolution was adopted without objection.

HB 964 - RULES SUSPENDED

Representative Hury moved to suspend the 48-hour subcommittee report rule to allow the Committee on Criminal Jurisprudence to consider HB 964.

The motion prevailed without objection.

HB 1407 - RULES SUSPENDED

Representative Denton moved to suspend the 48-hour subcommittee report rule to allow the Committee on Business and Commerce to consider HB 1407.

The motion prevailed without objection.

HB 784 AND HB 739 - RULES SUSPENDED

Representative Haley moved to suspend the 48-hour subcommittee report rule to allow the Committee on Public Education to consider HB 784 and HB 739.

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 HCR 185, HCR 222, HCR 233, HCR 166, and HCR 221.

The motion prevailed without objection.

PROVIDING FOR A LOCAL AND CONSENT CALENDAR AND RESOLUTIONS CALENDAR

Representative G. Hill moved to suspend all necessary rules to set a Local and Consent Calendar and Resolutions Calendar for Friday, May 13, at 9 a.m.

The motion prevailed without objection.

PROVIDING FOR A CONGRATULATORY AND MEMORIAL RESOLUTIONS CALENDAR

Representative S. Hudson moved to suspend all necessary rules to set a Congratulatory and Memorial Resolutions Calendar for Friday, May 13, at 9 a.m.

The motion prevailed without objection.

RESOLUTION REFERRED TO COMMITTEE

The following resolution was laid before the house and referred to committee:

By Price:
HCR 242, Promoting improved communication with hearing-impaired individuals by encouraging school districts to provide American Sign Language classes for credit to their students.
To Committee on Rules and Resolutions.

HB 2432 - RULES SUSPENDED

Representative Tejeda moved to suspend the 5-day posting rule to allow the Committee on Judicial Affairs to consider HB 2432.

The motion prevailed without objection.

HB 1705 - RULES SUSPENDED

Representative L. Hall moved to suspend the 48-hour subcommittee report rule to allow the Committee on Criminal Jurisprudence to consider HB 1705.

The motion prevailed without objection.

HB 1927 - RULES SUSPENDED

Representative Tejeda moved to suspend the 48-hour subcommittee report rule to allow the Committee on Judicial Affairs to consider HB 1927.

The motion prevailed without objection.

CORRECTION IN REFERRAL

SB 381, relating to the licensing and regulation of home health agencies and to the exemption of licensing requirements of certain health care professionals was inadvertently referred to the Committee on Public Health. HB 1305, relating to the same subject matter, was referred to the Committee on Retirement and Aging. The chair, after consultation with author and chairmen of the respective committees, now corrects the referral of SB 381 to the Committee on Retirement and Aging.
COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Environmental Affairs, Subcommittee on HJR 68 and HB 1198, on adjournment today, Desk 69, to consider HJR 68 and HB 1198.

Criminal Jurisprudence, Subcommittee on HB 1705, on adjournment today, Old Supreme Court room, to consider HB 1705.

Transportation, Subcommittee on SB 654, on adjournment today, Desk 51, to consider SB 654.

State Affairs, Subcommittee on HB 2197, on adjournment today, Desk 79, to consider HB 2197.

State Affairs, Subcommittee on HB 850, on adjournment today, back hall, to consider HB 850.

Higher Education, Subcommittee on SB 543, on adjournment today, Desk 52, to consider SB 543.

Higher Education, Subcommittee on HB 1190, on adjournment today, Desk 52, to consider HB 1190.

Elections, Subcommittee on HB 1303, on adjournment of full committee today, Room G-A, Reagan Building, to consider HB 1303.

Elections, Subcommittee on HB 1288, on adjournment of full committee meeting today, Room G-A, Reagan Building, to consider HB 1288.

Business and Commerce, Subcommittee on HB 1407, on adjournment today, Desk 145, to consider HB 1407.

Local and Consent Calendars, 5 p.m. today, Room G-14, Capitol.

Appropriations, on adjournment today, Room 309, to consider posted bills.

ADJOURNMENT

Representative Coody moved that the house adjourn until 10 a.m. tomorrow. The motion prevailed without objection. The house accordingly, at 3:58 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 1253
Business and Commerce - HB 79
County Affairs - HB 2370, HB 2379, SB 1275
Criminal Jurisprudence - HB 851, HB 1099, HB 1612
House Administration - HCR 4, HCR 36, HCR 37
Judicial Affairs - HB 940, HB 2380
Judiciary - HB 30, HB 1164, HB 1444, HB 1683, HB 1933, HB 2218, 
HJR 87, HJR 102, SB 878, SB 1190 
Natural Resources - HB 487 
Public Education - HB 21, HB 562, HB 576, HB 731, HB 1904, HB 2093, 
HB 2160, HB 2266, SB 208 
Retirement and Aging - HB 1753 
Ways and Means - HB 1367, HB 1831, HB 2085 

ENGROSSED 
May 9 - HJR 22 

ENROLLED 
May 9 - HB 164 

SENT TO THE GOVERNOR 
May 10 - HCR 84, HB 46, HB 68, HB 94, HB 99, HB 131, HB 164, 
HB 176, HB 218, HB 266, HB 276, HB 304, HB 333, HB 373, HB 375, 
HB 376, HB 502, HB 583, HB 665, HB 797, HB 1231, HB 1255, HB 1341, 
HB 1346, HB 2194, HB 2304 

COAUTHORS AUTHORIZED 
The following members were granted permission by the authors to sign bills 
and resolutions as coauthors: 
HB 210 - S. Hudson 
HB 807 - Patronella, Luna, Clemens, B. Barton, Carriker, A. Moreno 
HB 1091 - Toomey 
HB 1234 - S. Hudson 
HB 1397 - D. Hudson 
HB 1841 - Oliver 
HB 1843 - Oliver 
HB 2000 - Toomey 
HB 2396 - D. Hudson 
HB 2425 - C. Smith 
HCR 3 - Robnett 
HCR 225 - T. Smith 
HCR 240 - DeLay, Ceverha 
HR 357 - Barrientos, Delco 
HR 361 - Shaw, Colbert