

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-THIRD DAY — TUESDAY, MAY 10, 2011

The house met at 9:30 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 877).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Absent, Excused — Lucio.

Absent — Coleman; Dutton.

The invocation was offered by A. O. Martinez, pastor, Latin American Bible Institute, San Antonio.

The speaker recognized Representative Legler who led the house in the pledges of allegiance to the United States and Texas flags.

LEAVE OF ABSENCE GRANTED

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

Lucio on motion of Scott.

CAPITOL PHYSICIAN

The speaker recognized Representative Naishtat who presented Dr. Timothy Vachris of Austin as the "Doctor for the Day."

The house welcomed Dr. Vachris and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Aycock in the chair)

MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 1 and 2).

(Speaker in the chair)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the Conference Committee on **HB 1**:

Otto on motion of Orr.

FIVE-DAY POSTING RULE SUSPENDED

Representative Cook moved to suspend the five-day posting rule to allow the Committee on State Affairs to consider **SB 15** and pending business at 8 a.m. Thursday, May 12 in JHR 140.

The motion prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Cook requested permission for the Committee on State Affairs to meet while the house is in session, at 8 a.m. Thursday, May 12, in JHR 140, to consider **SB 15** and pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

State Affairs, 8 a.m. Thursday, May 12, JHR 140, for a public hearing, to consider **SB 15** and pending business.

FIVE-DAY POSTING RULE SUSPENDED

Representative Jackson moved to suspend the five-day posting rule to allow the Committee on Judiciary and Civil Jurisprudence to consider **HCR 141**, **SB 473**, **SB 481**, **SB 482**, **SB 791**, **SB 1025**, **SB 1159**, **SB 1216**, **SB 1228**, **SB 1236**, **SB 1322**, **SB 1545**, **SB 1560**, and **SB 1887** at 8 a.m. tomorrow, in E2.036.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Judiciary and Civil Jurisprudence, 8 a.m. tomorrow, E2.036, for a public hearing, to consider **HCR 141, SB 473, SB 481, SB 482, SB 791, SB 1025, SB 1159, SB 1216, SB 1228, SB 1236, SB 1322, SB 1545, SB 1560, and SB 1887.**

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Legler and by unanimous consent, the reading and referral of bills was postponed until just prior to final recess.

(Harper-Brown in the chair)

HR 1819 - ADOPTED (by Garza)

Representative Garza moved to suspend all necessary rules to take up and consider at this time **HR 1819.**

The motion prevailed.

The following resolution was laid before the house:

HR 1819, Honoring the public school superintendents of Texas House District 117.

HR 1819 was adopted.

HR 1649 - ADOPTED (by Cain)

Representative Cain moved to suspend all necessary rules to take up and consider at this time **HR 1649.**

The motion prevailed.

The following resolution was laid before the house:

HR 1649, Welcoming members of the Sulphur Springs Chamber of Commerce Adult Leadership Class to the State Capitol.

HR 1649 was adopted.

On motion of Representative Cain, the names of all the members of the house were added to **HR 1649** as signers thereof.

(Speaker in the chair)

(Otto now present)

EMERGENCY CALENDAR HOUSE BILLS THIRD READING

The following bills were laid before the house and read third time:

HB 12 ON THIRD READING (by Solomons, Bohac, Harless, et al.)

HB 12, A bill to be entitled An Act relating to the enforcement of state and federal laws governing immigration by certain governmental entities.

Amendment No. 1

Representative Castro offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee printing) as follows:

(1) On page 1, line 15, strike "and".

(2) On page 1, between lines 15 and 16, insert the following:

(3) an independent contractor, general contractor, or subcontractor of a general contractor that is doing business with a municipality, county, or special district or authority; and

(3) On page 1, line 16, strike "(3)" and substitute "(4)".

(Dutton now present)

Amendment No. 1 - Point of Order

Representative Geren raised a point of order against further consideration of Amendment No. 1 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

LEAVE OF ABSENCE GRANTED

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

Coleman on motion of Veasey.

HB 12 - (consideration continued)

The speaker sustained the point of order.

The ruling precluded further consideration of Amendment No. 1.

Amendment No. 2

Representative Burnam offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee printing) on page 2, lines 1-3, by striking "state or federal law relating to immigrants or immigration, including the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.)." and substituting the following:
state or federal law, including:

(1) law relating to immigrants or immigration, including the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.); and

(2) the Internal Revenue Code (26 U.S.C. Section 1 et seq.).

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Alvarado offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee report) as follows:

(1) On page 2, line 9, strike "detained for the investigation of a criminal offense or".

(2) On page 2, line 13, strike "detained for the investigation of a criminal offense or".

Amendment No. 3 failed of adoption by (Record 878): 43 Yeas, 100 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman; Lucio.

Absent — Dutton; Eiland; Guillen; Villarreal.

Amendment No. 4

Representative Gallego offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee printing) on page 3, lines 26-27, through page 4, line 1, by striking "or in a county in which the principal office of an entity described by Subsection (a) is located".

Amendment No. 4 was withdrawn.

Amendment No. 5

Representative Walle offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee printing) as follows:

(1) On page 3, strike lines 12-21.

(2) On page 3, lines 22-24, strike "(g) If the attorney general determines that a complaint filed under Subsection (f) against an entity described by Subsection (a) is valid, the" and substitute "(f) The".

(3) On page 4, line 10, strike "(h) An appeal of a suit brought under Subsection (g)" and substitute "(g) An appeal of a suit brought under Subsection (f)".

Amendment No. 5 failed of adoption by (Record 879): 43 Yeas, 101 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman; Lucio.

Absent — Dutton; Lyne; Miles.

STATEMENTS OF VOTE

When Record No. 879 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

I was shown voting no on Record No. 879. I intended to vote yes.

Villarreal

Amendment No. 6

Representative Alonzo offered the following amendment to **HB 12**:

Amend **HB 12** on third reading(house committee printing) as follows:

(1) On page 4, line 6, between the period and "The", insert the following:
The state shall pay the reasonable attorney's fees incurred by an entity described by Subsection (a) in defending an action brought under this subsection regardless of whether the entity prevails in the action.

(2) On page 4, line 6, between "recover" and "reasonable", insert "from the entity that is the subject of the action".

Amendment No. 6 failed of adoption by (Record 880): 43 Yeas, 95 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Eiland; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Harless; Harper-Brown; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Morrison; Murphy; Nash; Orr; Otto; Parker; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman; Lucio.

Absent — Callegari; Dutton; Farias; Hardcastle; Hartnett; Miller, S.; Patrick; Pickett; Walle.

STATEMENTS OF VOTE

When Record No. 880 was taken, I was in the house but away from my desk. I would have voted no.

Callegari

When Record No. 880 was taken, my vote failed to register. I would have voted no.

S. Miller

Amendment No. 7

Representative Castro offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee printing) on page 4, lines 6 and 7, by striking "The attorney general may recover reasonable expenses incurred in obtaining relief under this subsection" and substituting "The prevailing party in an action brought under this subsection may recover reasonable expenses".

Amendment No. 7 was withdrawn.

Amendment No. 8

Representative Rodriguez offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee printing) on page 4, between lines 14 and 15, by adding a new Subsection (i) as follows:

(i) An entity described by Subsection (a) that provides quantifiable data to the comptroller regarding additional costs to be incurred by the entity in the calendar year to comply with this section relating to the enforcement of the laws of this state or federal law relating to immigrants or immigration is required to comply with this section only if the comptroller certifies the costs to be incurred and that the legislature has made an appropriation or otherwise provided, from a source other than the revenue of the entity, for the payment or reimbursement of those costs.

Amendment No. 8 failed of adoption by (Record 881): 45 Yeas, 100 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman; Lucio.

Absent — Dukes; McClendon.

STATEMENTS OF VOTE

When Record No. 881 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 881 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

Amendment No. 9

Representative Castro offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee printing) on page 4, lines 6 and 7, by striking "The attorney general may recover reasonable expenses incurred in obtaining relief under this subsection" and substituting "The prevailing party in an action brought under this subsection may recover reasonable expenses".

HR 1762 - ADOPTED
(by Callegari)

Representative Callegari moved to suspend all necessary rules to take up and consider at this time **HR 1762**.

The motion prevailed.

The following resolution was laid before the house:

HR 1762, In memory of James Clarke Box of Houston.

HR 1762 was read and was unanimously adopted by a rising vote.

On motion of Representative C. Howard, the names of all the members of the house were added to **HR 1762** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Callegari who introduced family members of James Clarke Box.

HB 12 - (consideration continued)

(Hochberg in the chair)

Amendment No. 9 was withdrawn.

Amendment No. 10

Representative Alonzo offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee report), on page 4, between lines 14 and 15, by inserting the following:

(i) Notwithstanding any other law, a local law enforcement agency may not provide any form of legal advice to a person who is being detained for a suspected violation of a federal immigration law.

Amendment No. 10 was withdrawn.

Amendment No. 11

Representative Gallego offered the following amendment to **HB 12**:

Amend **HB 12** on third reading on page 4, line 26, by striking "in Travis County or".

(Speaker in the chair)

Amendment No. 11 failed of adoption by (Record 882): 48 Yeas, 97 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Workman.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman; Lucio.

Absent — Lyne; Smithee.

Amendment No. 12

Representative Castro offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee printing) on page 4, lines 6 and 7, by striking "The attorney general may recover reasonable expenses incurred in obtaining relief under this subsection" and substituting "The prevailing party in an action brought under this subsection may recover reasonable expenses".

Amendment No. 12 failed of adoption by (Record 883): 47 Yeas, 98 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Christian; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett;

Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman; Lucio.

Absent — Lyne; Miles.

STATEMENT OF VOTE

When Record No. 883 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

Amendment No. 13

Representative Alonzo offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee report), on page 4, between lines 14 and 15, by inserting the following:

(i) Notwithstanding any other law, a local law enforcement agency may not provide any form of legal advice to a person who is being detained for a suspected violation of a federal immigration law.

Amendment No. 13 failed of adoption by (Record 884): 47 Yeas, 100 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner;

Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman; Lucio.

Amendment No. 14

Representative Menendez offered the following amendment to **HB 12**:

Amend **HB 12** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Article 2.13, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) A commissioned peace officer who stops a motor vehicle based on the officer's reasonable suspicion of an alleged violation of a law or ordinance shall inquire as to the nationality or immigration status of the operator of the motor vehicle.

Amendment No. 14 failed of adoption by (Record 885): 44 Yeas, 101 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Nays — Aliseda; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman; Lucio.

Absent — Button; Miller, D.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 885. I intended to vote no.

Alonzo

I was shown voting yes on Record No. 885. I intended to vote present, not voting.

Castro

I was shown voting yes on Record No. 885. I intended to vote no.

Giddings

I was shown voting yes on Record No. 885. I intended to vote no.

T. King

I was shown voting yes on Record No. 885. I intended to vote no.

Marquez

I was shown voting yes on Record No. 885. I intended to vote no.

Muñoz

I was shown voting yes on Record No. 885. I intended to vote no.

Naishtat

I was shown voting yes on Record No. 885. I intended to vote no.

Rodriguez

I was shown voting yes on Record No. 885. I intended to vote no.

Turner

I was shown voting yes on Record No. 885. I intended to vote no.

Vo

Amendment No. 15

Representative Burnam offered the following amendment to **HB 12**:

Amend **HB 12** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Article 2.131, Code of Criminal Procedure, is amended to read as follows:

Art. 2.131. **RACIAL PROFILING PROHIBITED.** (a) A peace officer ~~may not~~ commits an offense if the officer engages in racial profiling.

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

Amendment No. 15 - Point of Order

Representative Phillips raised a point of order against further consideration of Amendment No. 15 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The point of order was withdrawn.

Amendment No. 15 failed of adoption by (Record 886): 41 Yeas, 102 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Lozano; Mallory Caraway; Marquez; Martinez; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Turner; Villarreal; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Martinez Fischer; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Veasey; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman; Lucio.

Absent — Anchia; King, T.; Strama; Thompson.

STATEMENT OF VOTE

I was shown voting no on Record No. 886. I intended to vote yes.

Martinez Fischer

Amendment No. 16

Representative Alonzo offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 247 to read as follows:

CHAPTER 247. CERTAIN PROHIBITIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

Sec. 247.001. PROHIBITION AGAINST REGULATING RESIDENTIAL TENANCIES BASED ON IMMIGRATION STATUS. (a) A political subdivision may not adopt a rule, order, ordinance, or policy under which the political subdivision requires a landlord to:

(1) refuse to lease to a prospective tenant or renew the lease of a tenant solely on the basis of the immigration status of the tenant or a member of the tenant's family; or

(2) inquire as to the immigration status of a tenant or prospective tenant or a member of the tenant's family.

(b) To the extent the prohibition imposed by Subsection (a) conflicts with common law, another state statute, or a local rule, order, ordinance, or policy, the prohibition in Subsection (a) prevails.

Amendment No. 16 - Point of Order

Representative Jackson raised a point of order against further consideration of Amendment No. 16 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

INTRODUCTION OF GUEST

The speaker recognized Representative Turner who introduced Freedom Rider Robert Farrell.

HB 12 - (consideration continued)

(Keffer in the chair)

The point of order was withdrawn.

Amendment No. 16 failed of adoption by (Record 887): 35 Yeas, 92 Nays, 2 Present, not voting.

Yeas — Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hochberg; Howard, D.; Johnson; King, T.; Mallory Caraway; Marquez; Martinez Fischer; Menendez; Muñoz; Naishtat; Peña; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Turner; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Coleman; Lucio.

Absent — Allen; Carter; Cook; Dukes; Dutton; Garza; Hartnett; Hernandez Luna; Hilderbran; Kuempel; Larson; Lozano; Martinez; McClendon; Miles; Miller, S.; Oliveira; Thompson; Veasey.

STATEMENTS OF VOTE

When Record No. 887 was taken, I was temporarily out of the house chamber. I would have voted no.

Cook

When Record No. 887 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 887 was taken, I was in the house but away from my desk. I would have voted no.

Hilderbran

When Record No. 887 was taken, I was temporarily out of the house chamber in the senate. I would have voted no.

Kuempel

When Record No. 887 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

I was shown voting no on Record No. 887. I intended to vote yes.

Villarreal

Amendment No. 17

Representative Gallego offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ Chapter 107, Civil Practice and Remedies Code, is amended by adding Section 107.006 to read as follows:

Sec. 107.006. INFORMATION PROVIDED TO PERSON QUESTIONED REGARDING IMMIGRATION STATUS. A municipality, county, or special district or authority subject to Section 370.0031, Local Government Code, must require that a person detained by an officer or employee of the municipality, county, or special district or authority regarding the person's immigration status be provided written information regarding the person's recognized rights outlined by the Vienna Convention on Consular Relations.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Callegari requested permission for the Committee on Government Efficiency and Reform to meet while the house is in session, at 2:30 p.m. today, in 3W.9, to consider **SB 1618**.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Government Efficiency and Reform, 2:30 p.m. today, 3W.9, for a formal meeting, to consider **SB 1618**.

HB 12 - (consideration continued)

Amendment No. 17 failed of adoption by (Record 888): 48 Yeas, 97 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Reynolds; Rodriguez; Simpson; Strama; Taylor, V.; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Coleman; Lucio.

Absent — Raymond.

Amendment No. 18

Representative Walle offered the following amendment to **HB 12**:

Amend **HB 12** on third reading (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION ____ . Subchapter F, Chapter 1701, Occupations Code, is amended by adding Section 1701.260 to read as follows:

Sec. 1701.260. IMMIGRATION LAW ENFORCEMENT TRAINING PROGRAM. The commission shall establish a training program on the enforcement of the laws of this state or federal law relating to immigrants or immigration for each officer licensed under this chapter whose duties include the enforcement of those laws. The program must provide information regarding the identification of and strategies for handling issues related to offenses involving the trafficking of persons.

Amendment No. 18 failed of adoption by (Record 889): 48 Yeas, 96 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle; White.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Coleman; Lucio.

Absent — Hardcastle; Jackson.

Amendment No. 19

Representative Farrar offered the following amendment to **HB 12**:

Amend **HB 12** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION ____ . Article 2.13, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) Subject to Section 370.0031(d)(1), Local Government Code, a peace officer may not inquire as to the nationality or immigration status of a victim of or witness to a criminal offense except as necessary to investigate that offense.

Amendment No. 19 failed of adoption by (Record 890): 47 Yeas, 97 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Coleman; Lucio.

Absent — Christian; Howard, C.

(Coleman now present)

HB 12 was passed by (Record 891): 100 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Lucio.

Absent — Hernandez Luna.

REMARKS

REPRESENTATIVE QUINTANILLA: Members, members, I've got to tell you something that I'm very proud of. If you'll look over there at the, what is it, southwest corner—south corner up there. A group from Tornillo, Texas, and Fort Hancock—they came to listen to this but they didn't quite get here to listen to me so—my sisters, the two coaches up there, Selma Quintanilla Trevizo, Maria Quintanilla Saldaña, and then we have a state champion up there in tennis. The state champion in tennis—he just won this morning, his name is Jesse. Tennis state champion Jesse Guerra and his parents, Pat and Sylvia Guerra, I think, is what Texas is all about. The state champion is up there, and we also have some people from Fort Hancock that are here. Welcome to your house, and sisters, we'll see you back home. Thank you for being here and they'll have a tour for you.

REMARKS ORDERED PRINTED

Representative Alonzo moved to print remarks by Representative Quintanilla.

The motion prevailed.

FIVE-DAY POSTING RULE SUSPENDED

Representative Keffer moved to suspend the five-day posting rule to allow the Committee on Energy Resources to consider **SB 105**, **SB 924**, **SB 1293**, **SB 1294**, **SB 1296**, and **SB 1434** at 8 a.m. tomorrow in E2.010.

The motion prevailed.

Representative Branch moved to suspend the five-day posting rule to allow the Committee on Higher Education to consider **SB 794** at 8:30 a.m. tomorrow in E1.014.

The motion prevailed.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Rules and Resolutions, during lunch recess today, Desk 89, for a formal meeting, to set a congratulatory and memorial calendar.

Higher Education, 8:30 a.m. tomorrow, E1.014, for a public hearing, to consider **SB 794** and the previously posted agenda.

RECESS

At 2:11 p.m., the speaker announced that the house would stand recessed until 3:15 p.m. today.

AFTERNOON SESSION

The house met at 3:15 p.m. and was called to order by the speaker.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 25).

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

**ADDRESS BY REPRESENTATIVE HERNANDEZ LUNA
ON A MATTER OF PERSONAL PRIVILEGE**

The chair recognized Representative Hernandez Luna who addressed the house on a matter of personal privilege.

**MAJOR STATE CALENDAR
HOUSE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**HB 3025 ON THIRD READING
(by Branch, Guillen, and Lozano)**

HB 3025, A bill to be entitled An Act relating to measures to facilitate the transfer of students within the public higher education system and the timely graduation of students from public institutions of higher education.

HB 3025 was passed by (Record 892): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.;

Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Lucio.

Absent — Aycock.

HB 2660 ON THIRD READING
(by J. Davis and Dutton)

HB 2660, A bill to be entitled An Act relating to transferring certain functions of the Texas Department of Housing and Community Affairs to the Texas State Affordable Housing Corporation.

Amendment No. 1

Representatives Menendez and J. Davis offered the following amendment to **HB 2660**:

Amend **HB 2660** on third reading by adding the following section and renumbering the sections accordingly:

SECTION 1. Subchapter K, Chapter 2306, Government Code, is amended by adding Section 2306.2585 to read as follows:

Sec. 2306.2585. HOMELESS HOUSING AND SERVICES PROGRAM.

(a) The department may administer a homeless housing and services program in each municipality in this state with a population of 285,500 or more to:

(1) provide for the construction, development, or procurement of housing for homeless persons; and

(2) provide local programs to prevent and eliminate homelessness.

(b) If the department implements the homeless housing and services program under Subsection (a), the department shall adopt rules to govern the program, including rules that:

(1) provide for the allocation of any available funding; and

(2) provide detailed guidelines as to the scope of the local programs in the municipalities described by Subsection (a).

(c) The department may use any available revenue, including legislative appropriations, and shall solicit and accept gifts and grants for the purposes of this section. The department shall use gifts and grants received for the purposes of this section before using any other revenue.

Amendment No. 1 was adopted.

LEAVE OF ABSENCE GRANTED

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

Deshotel on motion of Peña.

HB 2660 - (consideration continued)

HB 2660, as amended, was passed by (Record 893): 140 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Nays — Hartnett; Phillips; Sheffield; Weber.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Callegari; Creighton.

STATEMENTS OF VOTE

When Record No. 893 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

I was shown voting yes on Record No. 893. I intended to vote no.

Quintanilla

**HB 1818 ON THIRD READING
(by Harper-Brown)**

HB 1818, A bill to be entitled An Act relating to the continuation and functions of the Texas State Affordable Housing Corporation; providing penalties.

HB 1818 was passed by (Record 894): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook;

Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Creighton; King, T.

HCR 157 - ADOPTED
(by Hughes and Simpson)

Representative Hughes moved to suspend all necessary rules to take up and consider at this time **HCR 157**.

The motion prevailed.

The following resolution was laid before the house:

HCR 157, Congratulating Bill and Marlena Terry of White Oak on the occasion of their 50th wedding anniversary.

HCR 157 was adopted.

MAJOR STATE CALENDAR
SENATE BILLS
THIRD READING

The following bills were laid before the house and read third time:

SB 1693 ON THIRD READING
(Thompson - House Sponsor)

SB 1693, A bill to be entitled An Act relating to periodic rate adjustments by electric utilities.

SB 1693 was passed by (Record 895): 140 Yeas, 3 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton;

Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Bonnen; Carter; Hartnett.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Creighton; King, T.; Muñoz.

STATEMENTS OF VOTE

When Record No. 895 was taken, I was in the house but away from my desk. I would have voted yes.

Muñoz

I was shown voting yes on Record No. 895. I intended to vote no.

Truitt

GENERAL STATE CALENDAR

HOUSE BILLS

THIRD READING

The following bills were laid before the house and read third time:

HB 3308 ON THIRD READING

(by Rodriguez)

HB 3308, A bill to be entitled An Act relating to the operation of plug-in electric motor vehicles.

Representative Rodriguez moved to postpone consideration of **HB 3308** until 5 p.m. today.

The motion prevailed.

HB 2825 ON THIRD READING**(by Otto)**

HB 2825, A bill to be entitled An Act relating to the composition and appointment of the board of directors of a corporation to which the board of regents of The University of Texas System delegates investment authority for the permanent university fund or other funds under the control of the board of regents.

HB 2825 was passed by (Record 896): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Garza.

HB 1799 ON THIRD READING**(by Bonnen)**

HB 1799, A bill to be entitled An Act relating to the exemption of certain real estate professionals from registration as property tax consultants.

HB 1799 was passed by (Record 897): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett;

Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Burkett; Coleman; Hilderbran; Lyne.

STATEMENT OF VOTE

When Record No. 897 was taken, I was in the house but away from my desk. I would have voted yes.

Hilderbran

HB 2078 ON THIRD READING

(by Villarreal)

HB 2078, A bill to be entitled An Act relating to the independence of appraisal review boards; changing the elements of an offense.

(Bonnen in the chair)

Representative Lozano moved to postpone consideration of **HB 2078** until 4 p.m. today.

The motion prevailed.

HB 2203 ON THIRD READING

(by Otto)

HB 2203, A bill to be entitled An Act relating to the pilot program authorizing a property owner to appeal to the State Office of Administrative Hearings certain appraisal review board determinations.

HB 2203 was passed by (Record 898): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.;

Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Berman; Carter; Lyne.

STATEMENTS OF VOTE

When Record No. 898 was taken, I was in the house but away from my desk. I would have voted yes.

Carter

When Record No. 898 was taken, I was in the house but away from my desk. I would have voted yes.

Lyne

HB 2237 ON THIRD READING

(by Lyne, et al.)

HB 2237, A bill to be entitled An Act relating to the taxation and titling of certain off-road vehicles.

HB 2237 was passed by (Record 899): 113 Yeas, 24 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, R.; Berman; Branch; Brown; Cain; Callegari; Castro; Chisum; Christian; Coleman; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Lewis; Lozano; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, S.; Morrison; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anderson, C.; Beck; Bohac; Button; Carter; Cook; Driver; Frullo; Hancock; Hartnett; Howard, C.; Kleinschmidt; Landtroop; Legler; Madden; Miller, D.; Parker; Paxton; Perry; Sheffield; Shelton; Taylor, V.; Truitt; Weber.

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

Absent, Excused — Deshotel; Lucio.

Absent — Anchia; Aycock; Burkett; Burnam; Garza; Geren; Lyne; Naishtat; Patrick.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 899. I intended to vote no.

Berman

When Record No. 899 was taken, my vote failed to register. I would have voted yes.

Burkett

I was shown voting yes on Record No. 899. I intended to vote no.

Christian

I was shown voting yes on Record No. 899. I intended to vote no.

Creighton

I was shown voting yes on Record No. 899. I intended to vote no.

Flynn

When Record No. 899 was taken, I was in the house but away from my desk. I would have voted yes.

Geren

I was shown voting yes on Record No. 899. I intended to vote no.

Huberty

When Record No. 899 was taken, I was in the house but away from my desk. I would have voted yes.

Lyne

When Record No. 899 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

I was shown voting yes on Record No. 899. I intended to vote no.

T. Smith

HB 2596 ON THIRD READING

(by Garza)

HB 2596, A bill to be entitled An Act relating to the authority of local governments to enact and enforce certain traffic regulations.

HB 2596 was passed by (Record 900): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Sheets.

HB 2098 ON THIRD READING

(by J. Davis)

HB 2098, A bill to be entitled An Act relating to the authority of physicians and physician assistants to form certain entities.

HB 2098 was passed by (Record 901): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla;

Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Shelton.

STATEMENT OF VOTE

I was shown voting yes on Record No. 901. I intended to vote no.

Garza

HB 2439 ON THIRD READING (by Gallego)

HB 2439, A bill to be entitled An Act relating to posting suggestions and ideas on cost-efficiency on certain state agency websites.

HB 2439 was passed by (Record 902): 113 Yeas, 30 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Berman; Bohac; Branch; Brown; Burnam; Button; Cain; Castro; Chisum; Coleman; Craddick; Crownover; Darby; Davis, J.; Davis, Y.; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, D.; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Larson; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Anderson, R.; Beck; Bonnen(C); Burkett; Carter; Christian; Cook; Creighton; Davis, S.; Driver; Geren; Hardcastle; Hilderbran; Howard, C.; Huberty; Hughes; Kuempel; Landtroop; Laubenberg; Lavender; Miller, S.; Murphy; Paxton; Perry; Phillips; Sheffield; Truitt; Weber; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused — Deshotel; Lucio.

Absent — Alvarado; Aycock; Callegari; Giddings.

STATEMENT OF VOTE

I was shown voting no on Record No. 902. I intended to vote yes.

Burkett

HB 2389 ON THIRD READING**(by Fletcher)**

HB 2389, A bill to be entitled An Act relating to records of a holder of a motor vehicle title service license.

HB 2389 was passed by (Record 903): 140 Yeas, 3 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Gonzales, V.; Gonzalez; Marquez.

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

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Coleman; Darby.

HB 2889 ON THIRD READING**(by Madden)**

HB 2889, A bill to be entitled An Act relating to the expunction of records and files relating to a person's arrest.

HB 2889 was passed by (Record 904): 141 Yeas, 1 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.;

Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Bohac.

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

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Strama; Villarreal.

STATEMENT OF VOTE

I was shown voting no on Record No. 904. I intended to vote yes.

Bohac

HB 3017 ON THIRD READING (by Smithee)

HB 3017, A bill to be entitled An Act relating to the prohibited use of discretionary clauses in certain health maintenance organization and insurance contracts.

HB 3017 was passed by (Record 905): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Gonzales, L.

HB 3036 ON THIRD READING

(by Alvarado)

HB 3036, A bill to be entitled An Act relating to the municipal sales and use tax for street maintenance.

HB 3036 failed to pass by (Record 906): 67 Yeas, 78 Nays, 2 Present, not voting. (The vote was reconsidered later today, and **HB 3036** was postponed until 6:59 a.m. tomorrow.)

Yeas — Allen; Alonzo; Alvarado; Anchia; Burkett; Burnam; Castro; Chisum; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Harless; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Hunter; Isaac; Johnson; Keffer; King, T.; Lozano; Lyne; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Scott; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Button; Cain; Callegari; Carter; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Elkins; Fletcher; Flynn; Frullo; Geren; Gooden; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Huberty; Hughes; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Nash; Parker; Patrick; Paxton; Peña; Perry; Price; Riddle; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Deshotel; Lucio.

Absent — Aycock.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 906. I intended to vote no.

Eissler

I was shown voting yes on Record No. 906. I intended to vote no.

Hilderbran

I was shown voting no on Record No. 906. I intended to vote yes.

Nash

I was shown voting yes on Record No. 906. I intended to vote no.

Orr

HB 3133 ON THIRD READING

(by Rodriguez)

HB 3133, A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of property on which housing is being or has been built or repaired for sale to a low-income individual or family.

HB 3133 was passed by (Record 907): 94 Yeas, 50 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Branch; Brown; Burkett; Burnam; Castro; Chisum; Coleman; Crownover; Davis, J.; Davis, Y.; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hancock; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lozano; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Patrick; Peña; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Simpson; Smith, W.; Smithee; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; Workman.

Nays — Aliseda; Beck; Berman; Bohac; Button; Cain; Callegari; Carter; Christian; Cook; Craddick; Creighton; Darby; Davis, S.; Driver; Elkins; Fletcher; Flynn; Frullo; Geren; Gooden; Hamilton; Hardcastle; Harless; Howard, C.; Huberty; King, P.; Kuempel; Lavender; Legler; Lewis; Lyne; Madden; Miller, D.; Miller, S.; Morrison; Nash; Parker; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, T.; Truitt; Weber; White; Woolley; Zedler; Zerwas.

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

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Solomons.

STATEMENTS OF VOTE

I was shown voting no on Record No. 907. I intended to vote yes.

Frullo

I was shown voting yes on Record No. 907. I intended to vote no.

Landtroop

I was shown voting yes on Record No. 907. I intended to vote no.

Orr

HB 2759 ON THIRD READING
(by Hartnett)

HB 2759, A bill to be entitled An Act relating to the nonsubstantive revision of provisions of the Texas Probate Code relating to durable powers of attorney, guardianships, and other related proceedings and alternatives, and the redesignation of certain other provisions of the Texas Probate Code, including conforming amendments and repeals.

HB 2759 was passed by (Record 908): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Deshotel; Lucio.

Absent — Aycock.

HB 1013 ON THIRD READING
(by Brown, Callegari, Creighton, J. Davis, et al.)

HB 1013, A bill to be entitled An Act relating to the powers and duties of the Texas Medical Board.

HB 1013 was passed by (Record 909): 141 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Berman; Bohac; Bonnen(C); Branch; Brown; Burkett; Burnam; Button; Cain; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett;

Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Torres.

Present, not voting — Mr. Speaker; Shelton.

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Beck; Callegari; Solomons.

STATEMENT OF VOTE

When Record No. 909 was taken, my vote failed to register. I would have voted yes.

Beck

HB 3727 ON THIRD READING

(by Hilderbran and Martinez Fischer)

HB 3727, A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of certain commercial aircraft that are temporarily located in this state for manufacturing or assembly purposes.

HB 3727 was passed by (Record 910): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield;

Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Callegari; Gonzales, L.

STATEMENTS OF VOTE

When Record No. 910 was taken, I was temporarily out of the house chamber. I would have voted yes.

Callegari

When Record No. 910 was taken, my vote failed to register. I would have voted yes.

L. Gonzales

HB 174 ON THIRD READING

(by Jackson, Burkett, Branch, Bohac, Patrick, et al.)

HB 174. A bill to be entitled An Act relating to the cancellation of the voter registration and to the eligibility to vote of persons who are deceased or not citizens of the United States.

HB 174 was passed by (Record 911): 143 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Price; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Quintanilla.

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

Absent, Excused — Deshotel; Lucio.

Absent — Aycock; Peña.

HB 2817 ON THIRD READING
(by L. Taylor)

HB 2817, A bill to be entitled An Act relating to certain election practices and procedures.

Amendment No. 1

Representative L. Taylor offered the following amendment to **HB 2817**:

Amend **HB 2817** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 43.007, Election Code, is amended by adding Subsections (k) and (l) to read as follows:

(k) Each county that previously participated in a program under this section is authorized to continue participation in the program for future elections described by Subsection (a) if:

(1) the commissioners court of the county approves participation in the program; and

(2) the secretary of state determines the county's participation in the program was successful.

(l) Subsections (b), (c), and (d) do not apply to a county participating in the program under Subsection (k).

SECTION _____. Subchapter E, Chapter 127, Election Code, is amended by adding Section 127.1311 to read as follows:

Sec. 127.1311. ANNOUNCING UNOFFICIAL RESULTS. (a) Except as provided by Subsection (b), unofficial election results shall be released as soon as they are available after the polls close.

(b) The presiding judge of the central counting station, in cooperation with the county clerk, may withhold the release of unofficial election results until the last voter has voted.

SECTION _____. Section 174.092(a), Election Code, is amended to read as follows:

(a) The biennial state convention shall be convened on any day in June or July.

SECTION _____. Section 573.061, Government Code, is amended to read as follows:

Sec. 573.061. GENERAL EXCEPTIONS. Section 573.041 does not apply to:

(1) an appointment to the office of a notary public or to the confirmation of that appointment;

(2) an appointment of a page, secretary, attendant, or other employee by the legislature for attendance on any member of the legislature who, because of physical infirmities, is required to have a personal attendant;

(3) a confirmation of the appointment of an appointee appointed to a first term on a date when no individual related to the appointee within a degree described by Section 573.002 was a member of or a candidate for the legislature, or confirmation on reappointment of the appointee to any subsequent consecutive term;

(4) an appointment or employment of a bus driver by a school district if:

(A) the district is located wholly in a county with a population of less than 35,000; or

(B) the district is located in more than one county and the county in which the largest part of the district is located has a population of less than 35,000;

(5) an appointment or employment of a personal attendant by an officer of the state or a political subdivision of the state for attendance on the officer who, because of physical infirmities, is required to have a personal attendant;

(6) an appointment or employment of a substitute teacher by a school district; [~~or~~]

(7) an appointment or employment of a person by a municipality that has a population of less than 200; or

(8) an appointment of an election clerk under Section 32.031, Election Code, who is not related in the first degree by consanguinity or affinity to an elected official of the authority that appoints the election judges for that election.

Amendment No. 1 was adopted.

Amendment No. 2

On behalf of Representative Villarreal, Representative Lozano offered the following amendment to **HB 2817**:

Amend **HB 2817** on third reading by adding the following to added Section 33.008, Election Code (second reading engrossment, page 10, between lines 19 and 20):

(d) It is an exception to the application of Subsection (b) that information described by Subsection (a) was provided to a peace officer.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representatives Madden and Strama offered the following amendment to **HB 2817**:

Amend **HB 2817** on third reading (second reading engrossment) as follows:

(1) In SECTION 58 of the bill, strike the repeal of Section 127.201, Election Code (page 36, line 20).

(2) Add the following appropriately numbered SECTION to the bill and renumber the remaining SECTIONS of the bill accordingly:

SECTION ____ . Section 127.201, Election Code, is amended by adding Subsection (g) to read as follows:

(g) This section does not apply to the tabulation of electronic voting system results for a voting system that uses direct recording electronic voting machines.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Chisum offered the following amendment to **HB 2817**:

Amend **HB 2817** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering remaining SECTIONS of the bill accordingly:

SECTION _____. Section 87.0241, Election Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) Except as provided by Subsection (d), the [The] board may not count early voting ballots until:

- (1) the polls open on election day; or
- (2) in an election conducted by an authority of a county with a population of 100,000 or more or conducted jointly with such a county, the end of the period for early voting by personal appearance.

(d) An early voting ballot board may establish a process for removing data from voting machines used in early voting before the polls open on election day if:

- (1) the county will use the voting machines on election day; and
- (2) the secretary of state approves the process.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Hochberg offered the following amendment to **HB 2817**:

Amend **HB 2817** on third reading by adding the following appropriately numbered SECTION to the bill and by renumbering the existing SECTIONS as appropriate:

SECTION _____. Subchapter A, Chapter 13, Election Code, is amended by adding Section 13.009 to read as follows:

Sec. 13.009. ELECTRONIC VOTER REGISTRATION. (a) The secretary of state shall implement a program to allow a person who has a valid driver's license or personal identification card issued in this state to complete a voter registration application over the Internet from the official website of this state and either directly or via links to the websites of the secretary of state, the Department of Public Safety, and counties participating in the program.

(b) An applicant for electronic voter registration must:

- (1) attest to the truth of the information provided on the application by affirmatively accepting the information as true; and
- (2) affirmatively consent to the use of the address and signature on the applicant's driver's license or personal identification card for voter registration purposes.

(c) For each application submitted, the program shall require that a digital copy of the applicant's signature be obtained from the Department of Public Safety.

(d) An application submitted under this section is considered for all purposes as an application submitted by mail under this title.

(e) The secretary of state shall adopt rules as necessary to implement this section, including rules to provide for additional security measures necessary to ensure the accuracy and integrity of applications submitted electronically.

(f) The rules adopted under Subsection (e) must require that each Internet website through which a person may complete a voter registration application include a description of the offense described by Section 13.007 in a conspicuous location on the website near the place where the person begins or submits the application.

Amendment No. 5 was adopted.

Amendment No. 6

Representative S. Davis offered the following amendment to **HB 2817**:

Amend **HB 2817** (second reading engrossment) on third reading as follows:

(1) Strike amended Section 15.022(a)(3), Election Code (page 32, lines 14 through 16), and substitute the following:

(3) after receipt of [~~a registration omissions list and~~] any affidavits executed under Section 63.006 [~~63.007~~], following an election;

(2) Strike Subdivision (b) of SECTION 57 (page 32, line 27 through page 33, line 3), and reletter the remaining subdivisions accordingly.

(3) Strike amended Sections 66.0241(3)-(5), Election Code (page 36, lines 1 through 6), and substitute the following:

(3) [~~the registration omissions list;~~

[~~(4)~~] any statements of residence executed under Section 63.0011; and

[~~(4)~~] [~~(5)~~] any affidavits executed under Section 63.006 [~~63.007~~] or 63.011.

Amendment No. 6 was adopted.

LEAVE OF ABSENCE GRANTED

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

Veasey on motion of Raymond.

HB 2817 - (consideration continued)

HB 2817, as amended, was passed by (Record 912): 120 Yeas, 23 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen(C); Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gooden; Guillen;

Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Reynolds; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Anchia; Burnam; Dutton; Farias; Farrar; Gonzales, V.; Gonzalez; Gutierrez; Howard, D.; Johnson; Marquez; Miles; Muñoz; Naishtat; Oliveira; Quintanilla; Rodriguez; Strama; Thompson; Turner; Vo; Walle.

Present, not voting — Mr. Speaker; Giddings.

Absent, Excused — Deshotel; Lucio; Veasey.

Absent — Aycock; Castro.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 912. I intended to vote no.

Alvarado

I was shown voting yes on Record No. 912. I intended to vote no.

Y. Davis

I was shown voting present, not voting on Record No. 912. I intended to vote no.

Giddings

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**SB 1082 ON THIRD READING
(Laubenberg - House Sponsor)**

SB 1082, A bill to be entitled An Act relating to strategic partnerships for the continuation of certain water districts annexed by a municipality.

Amendment No. 1

Representative Elkins offered the following amendment to **SB 1082**:

Amend **SB 1082** on third reading by striking Amendment No. 2 by Elkins, adding Section 43.0751(k-1), Local Government Code, and a transition section related to that added subsection.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Elkins offered the following amendment to **SB 1082**:

Amend **SB 1082** on third reading as follows:

(1) Strike Amendment No. 1 by Elkins, adding Section 43.0751(f-1), Local Government Code, and the transition section related to that added subsection.

(2) Add the following appropriately numbered SECTIONS to the bill as follows:

SECTION _____. Subchapter D, Chapter 43, Local Government Code, is amended by adding Section 43.07515 to read as follows:

Sec. 43.07515. REGULATION OF FIREWORKS UNDER STRATEGIC PARTNERSHIP AGREEMENT LAW. (a) A municipality may not regulate under Section 43.0751 or 43.0752 the sale, use, storage, or transportation of fireworks outside of the municipality's boundaries.

(b) To the extent of a conflict with any other law, this section controls.

SECTION _____. Section 43.07515, Local Government Code, as added by this Act, applies only to a regulation adopted on or after the effective date of this Act.

(3) Renumber the remaining SECTIONS of the bill appropriately.

Amendment No. 2 was adopted.

SB 1082, as amended, was passed by (Record 913): 141 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Harless.

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

Absent, Excused — Deshotel; Lucio; Veasey.

Absent — Aycock; Eissler; Phillips.

SB 529 ON THIRD READING**(Hunter, Margo, Cook, Guillen, and Woolley - House Sponsors)**

SB 529, A bill to be entitled An Act relating to the regulation of motor vehicle dealers, manufacturers, distributors, and representatives.

SB 529 was passed by (Record 914): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Deshotel; Lucio; Veasey.

Absent — Aycock; Giddings.

STATEMENT OF VOTE

When Record No. 914 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

SB 1024 ON THIRD READING**(Rodriguez - House Sponsor)**

SB 1024, A bill to be entitled An Act relating to the prosecution of the offense of theft of service.

SB 1024 was passed by (Record 915): 139 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza;

Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Zedler; Zerwas.

Nays — Riddle.

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

Absent, Excused — Deshotel; Lucio; Veasey.

Absent — Aycock; Creighton; Miles; Nash; Workman.

SB 198 ON THIRD READING
(T. Smith - House Sponsor)

SB 198, A bill to be entitled An Act relating to exempting persons who are convicted of certain sexual offenses from registering as a sex offender in this state.

SB 198 was passed by (Record 916): 136 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddock; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Carter; Harper-Brown; Phillips; Price; Schwertner.

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

Absent, Excused — Deshotel; Lucio; Veasey.

Absent — Aycock; Creighton; Peña; Riddle.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 916. I intended to vote no.

Hilderbran

When Record No. 916 was taken, I was temporarily out of the house chamber. I would have voted yes.

Peña

SB 758 ON THIRD READING (Hilderbran - House Sponsor)

SB 758, A bill to be entitled An Act relating to sales and use tax information provided to certain local governmental entities.

SB 758 was passed by (Record 917): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Deshotel; Lucio; Veasey.

Absent — Aycock; Peña; Raymond.

STATEMENT OF VOTE

When Record No. 917 was taken, I was temporarily out of the house chamber. I would have voted yes.

Peña

SB 1478 ON THIRD READING
(Crownover - House Sponsor)

SB 1478, A bill to be entitled An Act relating to deadlines for the Railroad Commission of Texas to review certain applications for surface coal mining operation permits.

SB 1478 was passed by (Record 918): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Deshotel; Lucio; Veasey.

Absent — Aycock; Burnam; Reynolds.

SB 250 ON THIRD READING
(Anchia, Gallego, and Hartnett - House Sponsors)

SB 250, A bill to be entitled An Act relating to protective orders for stalking victims.

Representative Gallego moved to postpone consideration of **SB 250** until 5 p.m. today.

The motion prevailed.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSHB 1359 ON SECOND READING
(by Veasey)

CSHB 1359, A bill to be entitled An Act relating to authorization for a caregiver who is a relative to enroll a child in school.

CSHB 1359 was read second time on May 9 and was postponed until 6:45 p.m. May 9.

CSHB 1359 was passed to engrossment.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 5).

HB 2078 ON THIRD READING

(by Villarreal)

HB 2078, A bill to be entitled An Act relating to the independence of appraisal review boards; changing the elements of an offense.

HB 2078 was read third time earlier today and was postponed until this time.

Amendment No. 1

Representative Larson offered the following amendment to **HB 2078**:

Amend **HB 2078** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 41.08, Tax Code, is amended to read as follows:

Sec. 41.08. CORRECTION OF RECORDS ON ORDER OF BOARD. The chief appraiser shall make the reappraisals or other corrections of the appraisal records ordered by the appraisal review board as provided by this subchapter. The chief appraiser may not change a reappraisal or other correction ordered by the board. The chief appraiser shall submit a copy of the corrected records to the board for its approval as promptly as practicable.

(Speaker in the chair)

Amendment No. 1 was adopted.

HB 2078, as amended, was passed by (Record 919): 95 Yeas, 46 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Branch; Burkett; Burnam; Castro; Chisum; Coleman; Cook; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hancock; Hardcastle; Hartnett; Hernandez Luna; Hochberg; Howard, C.; Howard, D.; Hunter; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kuempel; Larson; Lewis; Lozano; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Shelton; Smith, W.; Smithee; Strama; Taylor, V.; Thompson; Torres; Turner; Villarreal; Vo; Walle; Woolley; Workman.

Nays — Beck; Berman; Bohac; Bonnen; Brown; Button; Cain; Carter; Christian; Craddick; Creighton; Crownover; Flynn; Frullo; Gooden; Hamilton; Harless; Harper-Brown; Hilderbran; Hopson; Huberty; Hughes; Isaac; King, P.; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Madden; Miller, D.; Morrison; Parker; Paxton; Perry; Ritter; Sheets; Sheffield; Simpson; Smith, T.; Taylor, L.; Truitt; Weber; White; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Deshotel; Lucio; Veasey.

Absent — Aycock; Callegari; Darby; Miller, S.; Solomons.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 919. I intended to vote no.

C. Anderson

I was shown voting yes on Record No. 919. I intended to vote no.

R. Anderson

When Record No. 919 was taken, my vote failed to register. I would have voted no.

Callegari

I was shown voting no on Record No. 919. I intended to vote yes.

Carter

I was shown voting yes on Record No. 919. I intended to vote no.

Kuempel

When Record No. 919 was taken, my vote failed to register. I would have voted no.

S. Miller

I was shown voting yes on Record No. 919. I intended to vote no.

Phillips

When Record No. 919 was taken, I was in the house but away from my desk. I would have voted no.

Solomons

I was shown voting yes on Record No. 919. I intended to vote no.

Woolley

CSHB 272 ON SECOND READING

(by Smithee, Chisum, Hancock, Margo, Sheets, et al.)

CSHB 272, A bill to be entitled An Act relating to the operation of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association; providing penalties.

CSHB 272 was read second time on May 7 and was postponed until 7 p.m. May 9.

CSHB 272 - POINT OF ORDER

Representative Gallego raised a point of order against further consideration of **CSHB 272** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The speaker overruled the point of order and had read the following statement:

Representative Gallego raised a point of order against further consideration of **CSHB 272** under Rule 4, Section 32(c) because the bill analysis is substantially and materially misleading. The chair has reviewed the bill and bill analysis, as well as the argument presented by both Representative Gallego and Representative Smithee. The chair finds that the bill analysis of **CSHB 272** is not substantially or materially misleading. Accordingly, the point of order is respectfully overruled.

Amendment No. 1

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

(1) On page 2, line 14, between "Sections" and "2210.010", insert "2210.0081,".

(2) On page 2, between lines 15 and 16, insert:

Sec. 2210.0081. CERTAIN ACTIONS BROUGHT AGAINST ASSOCIATION BY COMMISSIONER. In an action brought by the commissioner against the association under Chapter 441:

(1) the association's inability to satisfy obligations under Subchapter M related to the issuance of public securities under this chapter constitutes a condition that makes the association's continuation in business hazardous to the public or to the association's policy holders for the purposes of Section 441.052;

(2) the time for the association to comply with the requirements of supervision or for the conservator to complete the conservator's duties, as applicable, is limited to three years from the date the commissioner commences the action against the association; and

(3) unless the commissioner takes further action against the association under Chapter 441, as a condition of release from supervision, the association must demonstrate to the satisfaction of the commissioner that the association is able to satisfy obligations under Subchapter M related to the issuance of public securities under this chapter.

Amendment No. 2

Representatives Eiland and L. Taylor offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Smithee to **CSHB 272** as follows:

(1) On page 2, strike lines 30 and 31 and substitute:

"(4) the amount of court costs, reasonable and necessary attorney's fees, and interest on any recovery awarded to the claimant."

(2) On page 3, strike lines 9 and 10 and substitute:

"(4) the amount of court costs, reasonable and necessary attorney's fees, and interest on any recovery awarded to the claimant."

(3) On page 3, strike lines 25-32.

Amendment No. 2 was withdrawn.

Amendment No. 1 was adopted.

Amendment No. 3

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

(1) On page 2, strike lines 16-23 and substitute:

Sec. 2210.010. APPLICABILITY OF CERTAIN OTHER LAW. (a) A person may not bring a private action against the association, including a claim against an agent or representative of the association, under Chapter 541 or 542.

(b) Chapter 542 does not apply to the processing and settlement of claims by the association.

(2) On page 9, line 4, strike "insurable" and substitute "insured".

(3) On page 16, lines 3-4, strike "insured under this chapter".

(4) On page 16, lines 4-5, strike "concerning a causation, coverage, or damage dispute".

(5) On page 16, lines 17-18, strike "OTHER THAN CAUSATION, COVERAGE, AND DAMAGE DISPUTES" and substitute "OTHER THAN CLAIM DISPUTES".

(6) On page 18, lines 5-6, strike "following damage to property insured, or alleged to be insured, under the policy." and substitute "". The term also includes any other claim against the association, or an agent or representative of the association, relating to an insured loss, under any theory or cause of action of any kind, regardless of the theory under which the claim is asserted, the cause of action brought, or the type of damages sought."

(7) On page 18, strike lines 16-23 and substitute:

Sec. 2210.572. EXCLUSIVE REMEDIES AND LIMITATION ON AWARD. (a) This subchapter provides the exclusive remedies for a claim against the association, including an agent or representative of the association.

(b) The association or an agent or representative of the association may not be held liable for any amount on a claim other than:

(1) amounts payable under the terms of the association policy for loss to an insured structure, loss to contents of an insured structure, and additional living expenses; and

(2) any costs and fees awarded under Section 2210.578.

(c) The association or an agent or representative of the association may not be held liable for damages under Chapter 17, Business & Commerce Code, or under any provision of any law providing for trebling of damages or a penalty.

(8) On page 19, lines 20-21, strike "in accordance with" and substitute "within the period required by".

(9) On page 27, between lines 19 and 20, insert:

(d) Notwithstanding Subsection (b), a claimant aggrieved by an appraisal process under Section 2210.575 or the determination of an independent review panel under Section 2210.576 may appeal to a district court in the county in which the loss that, as applicable, is the subject of the appraisal or independent review occurred, for a determination concerning:

(1) the amount of the loss;

(2) whether the loss is covered by or insured under the association policy;

(3) whether the loss was caused by a hazard or risk insured under the policy; and

(4) the amount of court costs and reasonable and necessary attorney's fees.

(e) An appeal to a district court under Subsection (d) shall be trial de novo. The only questions that may be presented and determined at the trial de novo are:

(1) the amount of the loss;

(2) whether the loss is covered by or insured under the association policy;

(3) whether the loss was caused by a hazard or risk insured under the policy; and

(4) the amount of court costs and reasonable and necessary attorney's fees.

(f) The only evidence that may be admitted in a trial de novo under Subsection (d) is evidence that was admitted or presented in the appraisal process under Section 2210.575 or the independent review process under Section 2210.576. The Texas Rules of Evidence govern whether evidence presented during the appraisal process under Section 2210.575 or the independent review process under Section 2210.576 is admissible in a trial de novo under Subsection (d).

(g) A petition for trial de novo under Subsection (d) must be filed with a district court in the county in which the loss that, as applicable, is the subject of the appraisal or independent review occurred, not later than the 30th day after the date on which the determination being appealed is final and appealable under this subchapter.

(h) The appeal seeking a trial de novo under Subsection (d) shall be presided over by a judge appointed by the judicial panel on multidistrict litigation designated under Section 74.161, Government Code. A judge appointed under this section must be a resident of a first tier coastal county or a second tier coastal county.

(i) The Texas Supreme Court shall adopt rules governing the proceedings of a trial de novo under Subsection (d).

(10) On page 27, line 26, between "a" and "dispute", insert "claim or".

(11) On page 28, line 3, between "a" and "dispute", insert "claim or".

(12) On page 28, lines 7-9, strike "on the date the policy was delivered, issued for delivery, or renewed" and substitute "immediately before the effective date of this Act".

(13) On page 28, strike lines 13-18, and renumber SECTIONS of the bill appropriately.

Amendment No. 4

Representatives Eiland and L. Taylor offered the following amendment to Amendment No. 3:

Amend Amendment No. 3 by Smithee to **CSHB 272** as follows:

(1) On page 2, strike lines 30 and 31 and substitute:

"(4) the amount of court costs, reasonable and necessary attorney's fees, and interest on any recovery awarded to the claimant."

(2) On page 3, strike lines 9 and 10 and substitute:

"(4) the amount of court costs, reasonable and necessary attorney's fees, and interest on any recovery awarded to the claimant."

(3) On page 3, strike lines 25-32.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today because of important business in the district:

Anchia on motion of V. Gonzales.

Strama on motion of V. Gonzales.

CSHB 272 - (consideration continued)

Representative Smithee moved to table Amendment No. 4.

The motion to table prevailed by (Record 920): 87 Yeas, 51 Nays, 2 Present, not voting.

Yeas — Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Gonzales, L.; Gonzalez; Gooden; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lyne; Madden; Margo; Marquez; Miller, D.; Miller, S.; Murphy; Nash; Orr; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Torres; Truitt; White; Woolley; Workman; Zedler; Zerwas.

Nays — Aliseda; Allen; Alonzo; Alvarado; Bonnen; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Geren; Giddings; Gonzales, V.; Gutierrez; Hamilton; Hochberg; Howard, D.; Hunter; Johnson; King, T.; Legler; Lewis; Lozano; Mallory Caraway; Martinez; Martinez

Fischer; McClendon; Menendez; Morrison; Muñoz; Naishtat; Oliveira; Otto; Pickett; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Taylor, L.; Thompson; Villarreal; Vo; Walle; Weber.

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

Absent, Excused — Anchia; Deshotel; Lucio; Strama; Veasey.

Absent — Aycock; Guillen; Hernandez Luna; Schwertner; Turner.

STATEMENT OF VOTE

When Record No. 920 was taken, I was in the house but away from my desk. I would have voted yes.

Schwertner

Amendment No. 3 was adopted by (Record 921): 93 Yeas, 44 Nays, 2 Present, not voting.

Yeas — Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gonzalez; Gooden; Guillen; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lyne; Madden; Margo; Marquez; Martinez; Miller, D.; Miller, S.; Murphy; Nash; Orr; Parker; Patrick; Peña; Perry; Phillips; Pitts; Price; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Taylor, V.; Torres; Truitt; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Aliseda; Allen; Alonzo; Alvarado; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Gonzales, V.; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Howard, D.; Hunter; Johnson; King, T.; Legler; Lozano; Mallory Caraway; Martinez Fischer; McClendon; Menendez; Morrison; Muñoz; Naishtat; Oliveira; Otto; Pickett; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Taylor, L.; Thompson; Vo; Walle.

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

Absent, Excused — Anchia; Deshotel; Lucio; Strama; Veasey.

Absent — Anderson, C.; Aycock; Giddings; Paxton; Solomons; Turner.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 921. I intended to vote no.

Martinez

When Record No. 921 was taken, I was in the house but away from my desk. I would have voted yes.

Paxton

When Record No. 921 was taken, I was temporarily out of the house chamber. I would have voted present, not voting.

Solomons

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 6).

CSHB 272 - (consideration continued)

Amendment No. 5

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

(1) On page 3, line 2, strike "or serving as an arbitrator".

(2) On page 10, line 6, strike "ARBITRATION" and substitute "RESOLUTION OF CERTAIN DISPUTES".

(3) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

LEAVE OF ABSENCE GRANTED

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

Farrar on motion of Burnam.

CSHB 272 - (consideration continued)

Amendment No. 5 was adopted.

Amendment No. 6

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) on page 7 by inserting the following at the end of line 6:

The commissioner or the commissioner's designated representative shall maintain the confidentiality of, and may not disclose the content of, any confidential information discussed in a closed meeting authorized by Subchapter D, Chapter 551, Government Code.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) by striking SECTIONS 13 and 14 of the bill (page 9, line 7, through page 10, line 1), substituting the following appropriately numbered SECTIONS of the bill, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2210.202, Insurance Code, is amended to read as follows:

Sec. 2210.202. APPLICATION FOR COVERAGE. (a) A person who has an insurable interest in insurable property may apply to the association for insurance coverage provided under the plan of operation and an inspection of the property, subject to any rules established by the board of directors and approved by the commissioner. The association shall make insurance available to each applicant in the catastrophe area whose property is insurable property but who, after diligent efforts, is unable to obtain property insurance through the voluntary market, as evidenced by one declination from an insurer authorized to engage in the business of, and writing, property insurance providing windstorm and hail coverage in the first tier coastal counties. For purposes of this section, "declination" has the meaning assigned by the plan of operation and shall include a refusal to offer coverage for the perils of windstorm and hail and the inability to obtain substantially equivalent insurance coverage for the perils of windstorm and hail. Notwithstanding Section 2210.203(c), evidence of one declination every three calendar years is also required with an application for renewal of an association policy.

(b) A property and casualty agent must submit an application for initial ~~the~~ insurance coverage on behalf of the applicant on forms prescribed by the association. A person insured under this chapter may submit an application for renewal coverage directly to the association on forms prescribed by the association. An ~~The~~ application for initial or renewal coverage must contain:

(1) a statement as to whether the applicant has submitted or will submit the premium in full from personal funds or, if not, to whom a balance is or will be due; and

(2) [- Each application for initial or renewal coverage must also contain] a statement that the agent acting on behalf of the applicant possesses proof of the declination described by Subsection (a) and proof of flood insurance coverage or unavailability of that coverage as described by Section 2210.203(a-1), regardless of whether the agent or the applicant submits the application for coverage.

SECTION _____. Section 2210.203, Insurance Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) If the association determines that the property for which an application for initial insurance coverage is made is insurable property, the association, on payment of the premium, shall direct the issuance of an insurance policy as provided by the plan of operation.

(d) The commissioner shall adopt rules governing the rate of agent commissions on policies renewed under Subsection (c). Rules adopted under this subsection must require that commission rates be reasonable and not excessive, based on the time required of, and the nature of work to be performed by, an agent.

SECTION ____ . Sections 2210.204(d) and (e), Insurance Code, are amended to read as follows:

(d) If an insured requests cancellation of the insurance coverage, the association shall refund the unearned premium, less any minimum retained premium set forth in the plan of operation, payable to the insured and the holder of an unpaid balance. The property and casualty agent who received a commission as the result of the issuance of an association policy providing the canceled coverage [submitted the application] shall refund the agent's commission on any unearned premium in the same manner.

(e) For cancellation of insurance coverage under this section, the minimum retained premium in the plan of operation must be for a period of not less than 90 [~~180~~] days, except for events specified in the plan of operation that reflect a significant change in the exposure or the policyholder concerning the insured property, including:

- (1) the purchase of similar coverage in the voluntary market;
- (2) sale of the property to an unrelated party;
- (3) death of the policyholder; or
- (4) total loss of the property.

Amendment No. 7 was adopted.

Amendment No. 8

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

(1) Strike SECTION 22 of the bill (page 14, line 23, through page 15, line 4).

(2) Strike page 15, lines 13-22, and substitute the following:

(b) The catastrophe plan must:

(1) describe the manner in which the association will, during the period covered by the plan, evaluate losses and process claims after the following windstorms affecting an area of maximum exposure to the association:

(A) a windstorm with a four percent chance of occurring during the period covered by the plan;

(B) a windstorm with a two percent chance of occurring during the period covered by the plan; and

(C) a windstorm with a one percent chance of occurring during the period covered by the plan; and

(2) include, if the association does not purchase reinsurance under Section 2210.453 for the period covered by the plan, an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more.

(3) Renumber SECTIONS of the bill appropriately.

Amendment No. 8 was adopted.

Amendment No. 9

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

(1) On page 22, after line 27, insert the following:

(e) If a claimant requests appraisal under this section, the claimant is responsible for paying any costs incurred or charged by an appraiser retained by and on behalf of the claimant, the association is responsible for paying any costs incurred or charged by an appraiser retained by and on behalf of the association, and the claimant and the association are responsible in equal shares for any costs incurred or charged by any other appraiser chosen by the claimant's and the association's appraisers to participate in the resolution of the dispute.

(2) One page 23, line 1, strike "(e)" and substitute "(f)".

Amendment No. 9 was adopted.

Amendment No. 10

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) on page 27 by inserting the following between lines 22 and 23:

Sec. 2210.580. MEDIATION; CERTAIN DEADLINES TOLLED. A deadline imposed on a claimant under Section 2210.574, 2210.575, or 2210.576 is tolled for a single period not to exceed 45 consecutive days during which the claimant is actively seeking resolution of the causation dispute, coverage dispute, or damage dispute through a mediation administered by the department.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) on page 2 by striking the text on lines 24 and 25.

Amendment No. 11 was adopted.

Amendment No. 12

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) on page 8 by inserting the following between lines 25 and 26:

(c) Subsection (b) may not be construed to limit or otherwise restrict the categories of information that are public information under Section 552.022, Government Code.

Amendment No. 12 was adopted.

Amendment No. 13

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2210.053, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The association may not be considered a debtor authorized to file a petition or seek relief in bankruptcy under Title 11, United States Code.

Amendment No. 13 was adopted.

Amendment No. 14

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 2210, Insurance Code, is amended by adding Section 2210.058 to read as follows:

Sec. 2210.058. CLAIMS PRACTICES AUDIT. (a) If the commissioner determines that 100 or more claims have been filed under association policies the bases of which are damage to insured property caused by the same storm, the department shall conduct a random audit of the claim files of those claims to:

(1) determine whether the association is adequately and properly documenting claims decisions in each claim file; and

(2) ensure that each claim is being handled appropriately, including being handled in accordance with the terms of the policy under which the claim is filed.

(b) The department shall conduct an audit required under this section as soon as possible after the filing of the 100th claim described by Subsection (a) to ensure the quality of the process with which the association is handling claims described by Subsection (a).

(c) If, following an audit conducted under this section, the commissioner determines that the association is not adequately and properly documenting claims decisions or that claims described by Subsection (a) are not otherwise being handled appropriately, the commissioner shall:

(1) notify the board of directors of that determination; and

(2) identify the manner in which the association should correct any deficiencies identified by the commissioner.

Amendment No. 14 was adopted.

CSHB 272 - POINT OF ORDER

Representative Martinez Fischer raised a point of order against further consideration of **CSHB 272** under Rule 8, Section 5(b) of the House Rules.

The speaker overruled the point of order.

Amendment No. 15

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2210.102, Insurance Code, is amended by amending Subsection (i) to read as follows:

(i) Notwithstanding Subsection (f), for a vacancy occurring in a position under Subsection (b), the commissioner may appoint, for the lesser of 120 days or until the vacancy is filled, a person who has demonstrated knowledge in insurance principles. This subsection does not apply to a vacancy due to the expiration of a term occurring under Section 2210.103. This subsection expires December 31, 2012, and any appointment in effect on that date is continued until the expiration of the term of the appointment.

Amendment No. 15 was adopted.

Amendment No. 16

Representative Smithee offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) A legislative interim study committee shall conduct a study of alternative ways to provide insurance to the seacoast territory of this state through a quasi-governmental entity.

(b) The committee is composed of nine members appointed as follows:

- (1) three members of the senate appointed by the lieutenant governor;
- (2) three members of the house of representatives appointed by the speaker of the house of representatives; and
- (3) three public members with a background in actuarial science or insurance appointed as follows:

- (A) one by the governor;
- (B) one by the lieutenant governor; and
- (C) one by the speaker of the house of representatives.

(c) The speaker of the house of representatives and the lieutenant governor shall jointly designate a chair or, alternatively, designate two co-chairs, from among the committee membership.

(d) The committee shall:

- (1) examine alternative ways to provide insurance to the seacoast territory of this state through a quasi-governmental entity;
- (2) recommend:
 - (A) the appropriate scope of authority and responsibility for the entity to provide insurance to the seacoast territory of this state;
 - (B) an organizational structure to exercise authority and responsibility over the provision of insurance to the seacoast territory of this state;
 - (C) a timetable for implementation; and

(D) specific amendments to state laws and rules that are necessary to implement the committee's recommendations under this subdivision; and

(3) estimate funding requirements to implement the recommendations.

(e) The committee may adopt rules necessary to conduct business under and implement this section.

(f) Except as specifically provided by this section, the committee may operate in the same manner as a joint committee of the 82nd Legislature.

(g) Not later than December 1, 2012, the committee shall report to the governor and the legislature the recommendations made under this section.

Amendment No. 16 was adopted.

Amendment No. 17

Representative Eiland offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

(1) On page 1, line 24, strike "2210.002(b)" and substitute "Section 2210.002".

(2) On page 2, between lines 1 and 2, insert:

Sec. 2210.002. SHORT TITLE; SUNSET PROVISION. (a) This chapter may be cited as the Texas Coastal ~~[Windstorm]~~ Insurance Plan ~~[Association]~~ Act. A reference to the Texas Windstorm Insurance Act means this chapter.

(3) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. The heading to Chapter 2210, Insurance Code, is amended to read as follows:

CHAPTER 2210. TEXAS COASTAL ~~[WINDSTORM]~~ INSURANCE PLAN
[ASSOCIATION]

SECTION _____. Section 2210.003(1), Insurance Code, is amended to read as follows:

(1) "Association" means the Texas Coastal ~~[Windstorm]~~ Insurance Plan Association.

SECTION _____. (a) The name of the Texas Windstorm Insurance Association is changed to the Texas Coastal Insurance Plan Association.

(b) A reference in law to the Texas Windstorm Insurance Association or the Texas Windstorm Insurance Association Act means the Texas Coastal Insurance Plan Association or the Texas Coastal Insurance Plan Act, respectively.

Amendment No. 17 was adopted.

Amendment No. 18

Representative L. Taylor offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

(1) On page 2, line 14, strike "2210.011".

(2) Strike page 2, line 26, through page 3, line 2.

Amendment No. 18 was adopted.

Amendment No. 19

Representative Walle offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

1. On pages 2-3, strike Section 2210.011 and renumber accordingly.

Amendment No. 19 was withdrawn.

Amendment No. 20

Representative Walle offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

1. On page 3, line 5, between "association" and "may" insert "Any board member, employee or member of the Windstorm Legislative Oversight Committee who reasonably suspects that a fraudulent insurance act has been or is about to be committed by any board member, employee or member of the Windstorm Legislative Oversight Committee, not later than the 30th day after discovering the conduct, shall report the conduct and identity of the person engaging in the conduct to the Travis County District Attorney and the Texas Department of Insurance."

Amendment No. 20 was adopted.

Amendment No. 21

Representative Hancock offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) by striking SECTIONS 5, 6, and 7 of the bill (page 4, line 27, through page 6, line 2), inserting the following appropriately numbered SECTIONS, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2210.003, Insurance Code, is amended by adding Subdivision (3-b) to read as follows:

(3-b) "Catastrophe year" means a calendar year in which an occurrence or a series of occurrences results in insured losses, regardless of when the insured losses are ultimately paid.

SECTION _____. Section 2210.071(a), Insurance Code, is amended to read as follows:

(a) If, in a catastrophe year, an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

SECTION _____. Section 2210.072, Insurance Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (b-1) to read as follows:

(a) Losses not paid under Section 2210.071 shall be paid as provided by this section from the proceeds from Class 1 public securities authorized to be issued in accordance with Subchapter M before, on, or after the date of any occurrence or series of occurrences that results in insured losses. Public securities

issued under this section must be repaid within a period not to exceed 10 years, and may be repaid sooner if the board of directors elects to do so and the commissioner approves.

(b) Public securities described by Subsection (a) that are issued before an occurrence or series of occurrences that results in incurred losses may be issued if the board of directors determines, before the date of any occurrence, that the amount available from premium and other revenue, in combination with the amounts available from the catastrophe reserve trust fund, may be insufficient to pay insured losses.

(b-1) Public securities described by Subsection (a) shall be issued as necessary in a principal amount not to exceed \$1 billion per catastrophe year, in the aggregate, for securities issued before the occurrence or series of occurrences that results in incurred losses in that year and securities issued on or after the date of that occurrence or series of occurrences.

(c) ~~If [the losses are paid with]~~ public securities are issued as described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M from association premium revenue.

SECTION _____. Section 2210.073(b), Insurance Code, is amended to read as follows:

(b) Public securities described by Subsection (a) may be issued as necessary in a principal amount not to exceed \$1 billion per catastrophe year. If the losses are paid with public securities described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M.

SECTION _____. Section 2210.074(b), Insurance Code, is amended to read as follows:

(b) Public securities described by Subsection (a) may be issued as necessary in a principal amount not to exceed \$500 million per catastrophe year. If the losses are paid with public securities described by this section, the public securities shall be repaid in the manner prescribed by Subchapter M through member assessments as provided by this section. The association shall notify each member of the association of the amount of the member's assessment under this section. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052. A member of the association may not recoup an assessment paid under this subsection through a premium surcharge or tax credit.

SECTION _____. Section 2210.602(2), Insurance Code, is amended to read as follows:

(2) "Class 1 public securities" means public securities authorized to be issued before, on, or after an occurrence or series of occurrences by Section 2210.072, including a commercial paper program authorized before the occurrence of a catastrophic event but in which ~~so long as~~ no tranche of commercial paper is issued under the program until after the catastrophic event.

SECTION _____. Section 2210.604, Insurance Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) At the request of the association and with the approval of the commissioner, the Texas Public Finance Authority shall issue Class 1, Class 2, or Class 3 public securities. The association shall submit to the commissioner a cost-benefit analysis of various financing methods and funding structures when requesting the issuance of public securities under this subsection.

(a-1) The association and the commissioner must approve each tranche of commercial paper issued under a commercial paper program established under this chapter.

SECTION _____. Section 2210.609(b), Insurance Code, is amended to read as follows:

(b) The board shall notify the association of the amount of the public security obligations and the estimated amount of public security administrative expenses, if any, each calendar year in a period sufficient, as determined by the association, to permit the association to determine the availability of funds and assess a premium surcharge if necessary.

SECTION _____. Section 2210.611, Insurance Code, is amended to read as follows:

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Revenue collected in any calendar year from a premium surcharge under Section 2210.613 that exceeds the amount of the public security obligations and public security administrative expenses payable in that calendar year and interest earned on the public security obligation fund may, in the discretion of the association, be:

(1) used to pay public security obligations payable in the subsequent calendar year, offsetting the amount of the premium surcharge that would otherwise be required to be levied for the year under this subchapter;

(2) used to redeem or purchase outstanding public securities; or

(3) deposited in the catastrophe reserve trust fund.

SECTION _____. Section 2210.612(b), Insurance Code, is amended to read as follows:

(b) The association may enter financing arrangements as described by Section 2210.072(d) as necessary to obtain public securities issued under that section. Nothing in this subsection prevents [~~shall prevent~~] the authorization and creation of one or more programs for the issuance of commercial paper before the date of an occurrence that results in insured losses under Section 2210.072(a) but in which [~~so long as~~] no tranche of commercial paper is issued under a commercial paper program until after such an occurrence.

SECTION _____. Section 2210.613, Insurance Code, is amended to read as follows:

Sec. 2210.613. PAYMENT OF CLASS 2 PUBLIC SECURITIES. (a) The association shall pay Class 2 public securities issued under Section 2210.073 as provided by this section. Thirty percent of the cost of the public securities shall be paid through member assessments as provided by this section. The association shall notify each member of the association of the amount of the member's assessment under this section. The proportion of the losses allocable to each

insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052. A member of the association:

(1) may not recoup an assessment paid under this subsection through a premium surcharge or tax credit; and

(2) notwithstanding Section 2210.073(a), may elect to pay an assessment under this subsection in a lump sum.

(b) Seventy percent of the cost of the public securities shall be paid by a [nonrefundable] premium surcharge collected under this section in an amount set by the commissioner. On approval by the commissioner, each insurer, the association, and the Texas FAIR Plan Association shall assess, as provided by this section, a premium surcharge to each policyholder of a policy that is in effect on or after the 180th day after the date the commissioner issues notice of the approval of the public securities [its policyholders as provided by this section]. The premium surcharge must be set in an amount sufficient to pay, for the duration of the issued public securities, all debt service not already covered by available funds and all related expenses on the public securities.

(c) The premium surcharge under Subsection (b) shall be assessed on all policyholders of policies that cover [who reside or have operations in, or whose] insured property that is located in a catastrophe area, including automobiles principally garaged in a catastrophe area. The premium surcharge shall be assessed on [for] each Texas windstorm and hail insurance policy and each property and casualty insurance policy, including an automobile insurance policy, issued for automobiles and other property located in the catastrophe area. A premium surcharge under Subsection (b) applies to:

(1) all policies written under the following lines of insurance:

(A) fire and allied lines;

(B) farm and ranch owners;

(C) residential property insurance;

(D) private passenger automobile liability and physical damage insurance; and

(E) commercial passenger automobile liability and physical damage insurance; and

(2) the property insurance portion of a commercial multiple peril insurance [that provide coverage on any premises, locations, operations, or property located in the area described by this subsection for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance].

(d) A premium surcharge under Subsection (b) is a separate [nonrefundable] charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure by a policyholder to pay the surcharge constitutes failure to pay premium for purposes of policy cancellation.

SECTION _____. Sections 2210.6135(a) and (c), Insurance Code, are amended to read as follows:

(a) The association shall pay Class 3 public securities issued under Section 2210.074 as provided by this section through member assessments. The association, for the payment of the losses, shall assess the members of the association an amount not to exceed \$500 million per catastrophe year [~~for the payment of the losses~~]. The association shall notify each member of the association of the amount of the member's assessment under this section.

(c) A member of the association:

(1) may not recoup an assessment paid under this section through a premium surcharge or tax credit; and

(2) notwithstanding Section 2210.074(a), may elect to pay an assessment under this section in a lump sum.

Amendment No. 21 was adopted.

Amendment No. 22

Representative Vo offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

Add the following after page 9, line 15:

SECTION ____ Section 2210.203(c), Insurance Code, is amended to read as follows:

(c) A policy is automatically [~~may be~~] renewed annually [~~on application for renewal~~] as long as the property continues to be insurable property, or until the policy is canceled as provided by Section 2210.204.

Amendment No. 22 was withdrawn.

Amendment No. 23

Representative Martinez offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

1. On page 10, line 10 between "occurs" and ";", insert "except property owned by a charitable organization as defined by 26 USC Sec. 501C3, whereby they are required to file a claim under the policy not later than the two year anniversary of the date on which the insured discovered the damage to the property that is basis of the claim".

2. On page 13, line 4 between "2009," and "and", insert "except those policies issued to insure property owned by a charitable organization as defined by 26 USC Sec. 501C3,"

3. On page 14, line 12, strike "and".

4. On page 14, line 13, strike "." and substitute "; and"

5. On page 14, line 14, insert "(3) is not a policy issued to cover a property owned by a charitable organization as defined by 26 USC Sec. 501C3."

6. On page 17, line 6, strike "only"

7. On page 17, line 10, strike "." and substitute "unless such person is bringing an action on a policy covering property owned by a charitable organization as defined by 26 USC Sec. 501C3."

8. On page 17, line 19, strike "." and substitute "unless such property is owned by a charitable organization as defined by 26 USC Sec. 501C3."

9. On page 21, line 24, after "." insert "This section shall not apply to claims for property owned by a charitable organization as defined by 26 USC Sec. 501C3. These claimants' right to judicial review and trial by jury shall not be constricted, abridged or restrained."

Representative Smithee moved to table Amendment No. 23.

The motion to table prevailed by (Record 922): 103 Yeas, 36 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Giddings; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Turner; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Gallego; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Johnson; Lozano; Mallory Caraway; Marquez; Martinez; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Vo; Walle.

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

Absent, Excused — Anchia; Deshotel; Farrar; Lucio; Strama; Veasey.

Absent — Aycock; Martinez Fischer; Villarreal.

Amendment No. 24

Representative Farias offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

1. On page 10, line 10 between "occurs" and ";", insert "except any property used as an educational facility, whereby they are required to file a claim under the policy not later than the two year anniversary of the date on which the insured discovered the damage to the property that is basis of the claim".

2. On page 13, line 4 between "2009," and "and", insert "except those policies issued to cover any property used as an educational facility,"

3. On page 14, line 12, strike "and".

4. On page 14, line 13, strike "." and substitute "; and"

5. On page 14, line 14, insert "(3) is not a policy issued to any property used as an educational facility."

6. On page 17, line 6, strike "only"

7. On page 17, line 10, strike "." and substitute "unless such person is bringing an action on a policy covering an educational facility."

8. On page 17, line 19, strike "." and substitute "except any property used as an educational facility."

9. On page 21, line 24, after "." insert "This section shall not apply to claims involving any property used as an educational facility. These claimants' right to judicial review and trial by jury shall not be constricted, abridged or restrained."

Representative Smithee moved to table Amendment No. 24.

The motion to table prevailed by (Record 923): 101 Yeas, 38 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Davis, Y.; Dukes; Dutton; Eiland; Farias; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Johnson; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Villarreal; Vo.

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

Absent, Excused — Anchia; Deshotel; Farrar; Lucio; Strama; Veasey.

Absent — Aycock; Coleman; Smith, T.

STATEMENT OF VOTE

I was shown voting yes on Record No. 923. I intended to vote no.

Peña

Amendment No. 25

Representative Farias offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

1. On page 10, line 10 between "occurs" and ";", insert "unless the insured is an active duty member of the United States Armed forces, whereby they are required to file a claim under the policy not later than the two year anniversary of the date on which the insured discovered the damage to the property that is basis of the claim".

2. On page 13, line 4 between "2009," and "and", insert "except those policies issued to an active duty member of the United States Armed forces,"

3. On page 14, line 12, strike "and".

4. On page 14, line 13, strike "." and substitute "; and"

5. On page 14, line 14, insert "(3) is not a policy issued to an active duty member of the United States Armed forces".

6. On page 17, line 6, strike "only"

7. On page 17, line 10, strike "." and substitute "unless such person is an active duty member of the United States Armed forces,"

8. On page 17, line 19, strike "." and substitute "unless such person is an active duty member of the United States Armed forces whereby by such person must bring the action within fourth anniversary,"

9. On page 21, line 24, after "." insert "This section shall not apply to claimants who are active duty members of the United States Armed forces. These claimants' right to judicial review and trial by jury shall not be constricted, abridged or restrained,"

Representative Smithee moved to table Amendment No. 25.

The motion to table prevailed by (Record 924): 98 Yeas, 41 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Davis, Y.; Dukes; Dutton; Eiland; Farias; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Villarreal; Vo; Walle; Weber.

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

Absent, Excused — Anchia; Deshotel; Farrar; Lucio; Strama; Veasey.

Absent — Aycock; Coleman; Geren.

Amendment No. 26

Representative Farias offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

1. On page 10, line 10 between "occurs" and ";", insert "unless the insured is an active duty member of the United States Armed forces deployed overseas, whereby they are required to file a claim under the policy not later than the two year anniversary of the date on which the insured discovered the damage to the property that is basis of the claim".

2. On page 13, line 4 between "2009," and "and", insert "except an active duty member of the United States Armed forces deployed overseas,"

3. On page 14, line 12, strike "and".

4. On page 14, line 13, strike "." and substitute "; and"

5. On page 14, line 14, insert "(3) is not a policy issued to an active duty member of the United States Armed forces deployed overseas."

6. On page 17, line 6, strike "only"

7. On page 17, line 10, strike "." and substitute "unless such person is an active duty member of the United States Armed forces deployed overseas."

8. On page 17, line 19, strike "." and substitute "unless such person is an active duty member of the United States Armed forces deployed overseas."

9. On page 21, line 24, after "." insert "This section shall not apply to claimants who are active duty members of the United States Armed forces deployed overseas. These claimants' right to judicial review and trial by jury shall not be constricted, abridged or restrained."

AMENDMENT NO. 26 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE SMITHEE: Once again members, this is exactly the reason why we put the good cause exception in there. If you're overseas, you're going to have good cause for late filing. The good cause provision is to be applied liberally; we don't want any gotchas in this bill. We just want to get the claims in. So, I'm going to oppose this as another carve-out. Once again, it's the classic good cause, and with good cause they would be able to file past the one year.

REPRESENTATIVE BONNEN: Okay, so I want to be abundantly clear. This amendment is necessary for someone who, let's say, is serving in Iraq or in Afghanistan. And, at the 18-month period they come home and they say they need to file a claim, the bill already covers them in the good cause to be able still file that claim, is that correct?

SMITHEE: Dennis, this is the classic good cause. I mean, if someone is disabled, if they're overseas—

BONNEN: Is there a limit on good cause? A time limit?

SMITHEE: I'll look and see. I don't know if we have a time limit on that. I can't remember. I don't think there is a limit. It's up to the commissioner, therefore, it's not TWIA, it's the commissioner of insurance.

BONNEN: So, I want to go on record then. So, if any active duty military for some reason is not given a good cause exemption, I hope they would contact their state representative, and they would help them with that matter.

SMITHEE: They can. We could do this a little different way. We could say service overseas is considered. We can do it. Thank you.

REMARKS ORDERED PRINTED

Representative Weber moved to print remarks between Representative Bonnen and Representative Smithee.

The motion prevailed.

Representative Smithee moved to table Amendment No. 26.

The motion to table prevailed by (Record 925): 98 Yeas, 42 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Davis, Y.; Dukes; Dutton; Eiland; Farias; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Johnson; King, T.; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Peña; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Villarreal; Vo; Walle; Weber; White.

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

Absent, Excused — Anchia; Deshotel; Farrar; Lucio; Strama; Veasey.

Absent — Aycock; Coleman.

Amendment No. 27

Representative Burnam offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

(1) On page 10, line 8, between "(1)" and "require", insert "except as provided by Subsection (c).".

(2) On page 10, between lines 21 and 22, insert the following:

(c) Notwithstanding Subsection (a)(1), an insured that is a church or other house of worship, prayer, or religious purpose may file a claim under a policy to which this section applies not later than the two-year anniversary of the date on which the insured discovers the damage to the property that is the basis of the claim.

(3) On page 13, line 3, between "2009," and "and", insert "except a policy issued to a church or other house of worship, prayer, or religious purpose,".

(4) On page 14, line 12, strike "and".

(5) On page 14, line 13, between "discriminatory" and the period, insert the following:
; and

(3) is not applied to a policy issued to a church or other house of worship, prayer, or religious purpose".

(6) On page 17, line 6, strike "only".

(7) On page 17, line 10, between "Code" and the period, insert ", unless the action is brought under or in relation to a policy issued to an insured that is a church or other house of worship, prayer, or religious purpose".

(8) On page 17, line 19, between "aggrieved" and the period, insert ", unless the action is on a policy issued to an insured that is a church or other house of worship, prayer, or religious purpose".

(9) On page 21, line 24, immediately following the period, insert "This section does not apply to claims involving a church or other house of worship, prayer, or religious purpose. The right of a church or other house of worship, prayer, or religious purpose to judicial review and trial by jury may not be abridged or restrained."

LEAVE OF ABSENCE GRANTED

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

Cook on motion of Driver.

CSHB 272 - (consideration continued)

Representative Smithee moved to table Amendment No. 27.

The motion to table prevailed by (Record 926): 102 Yeas, 35 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gonzalez; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Madden; Mallory Caraway; Margo; Marquez; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle;

Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Davis, Y.; Dukes; Dutton; Eiland; Farias; Gallego; Giddings; Gonzales, V.; Guillen; Gutierrez; Hernandez Luna; Hochberg; Johnson; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Villarreal; Vo; Walle.

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

Absent, Excused — Anchia; Cook; Deshotel; Farrar; Lucio; Strama; Veasey.

Absent — Aycock; Coleman; Lyne; Peña.

Amendment No. 28

On behalf of Representative Deshotel, Representative Eiland offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

1. On page 10, strike line 27.
2. On page 11, strike lines 1-3.

Amendment No. 28 failed of adoption.

Amendment No. 29

Representative W. Smith offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) on page 11, between lines 19 and 20, by inserting the following:

(c) Subsection (b) applies only to a determination concerning the appointment of a qualified inspector under this chapter. The exclusive jurisdiction of the department under this section does not apply to the practice of engineering as defined by Section 1001.003, Occupations Code, or to a license issued, qualification required, determination made, order issued, judgment rendered, or other action of a board operating under Chapter 1001, Occupations Code. In the event of conflict, the authority of that board prevails with regard to the practice of engineering.

Amendment No. 29 was adopted.

Amendment No. 30

Representative L. Taylor offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

(1) Strike SECTIONS 20 and 21 of the bill (page 12, line 18, through page 14, line 22).

(2) Add the following appropriately numbered SECTION to the bill:

SECTION _____. (a) The adjuster advisory board established under this section is composed of the following nine members appointed by the commissioner:

- (1) two public insurance adjusters;

- (2) two members who represent the general public;
 - (3) two independent adjusters;
 - (4) one adjuster who represents a domestic insurer authorized to engage in business in this state;
 - (5) one adjuster who represents a foreign insurer authorized to engage in business in this state; and
 - (6) one representative of the Independent Insurance Agents of Texas.
- (b) A member who represents the general public may not be:
- (1) an officer, director, or employee of:
 - (A) an adjuster or adjusting company;
 - (B) an insurance agent or agency;
 - (C) an insurance broker;
 - (D) an insurer; or
 - (E) any other business entity regulated by the department;
 - (2) a person required to register as a lobbyist under Chapter 305, Government Code; or
 - (3) a person related within the second degree of affinity or consanguinity to a person described by Subdivision (1) or (2).
- (c) The advisory board shall make recommendations to the commissioner regarding:
- (1) matters related to the licensing, testing, and continuing education of licensed adjusters;
 - (2) matters related to claims handling, catastrophic loss preparedness, ethical guidelines, and other professionally relevant issues; and
 - (3) any other matter the commissioner submits to the advisory board for a recommendation.
- (d) A member of the advisory board serves without compensation. If authorized by the commissioner, a member is entitled to reimbursement for reasonable expenses incurred in attending meetings of the advisory board.
- (e) The advisory board is subject to Chapter 2110, Government Code.
- (3) Renumber SECTIONS of the bill accordingly.

Amendment No. 30 was adopted.

Amendment No. 31

Representative Walle offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

Add the following to the section starting at page 13, line 16:

SECTION 21. Section 2210.355, Insurance Code, is amended by amending Subsections (g) and (i) and adding Subsections (j), (k), and (l) to read as follows:

(g) A commission paid to an agent for a windstorm and hail insurance policy issued by the association:

(1) must be reasonable, adequate, not unfairly discriminatory, and nonconfiscatory; and

(2) may not exceed 10 percent of the earned premium for the policy.

Representative Smithee moved to table Amendment No. 31.

The motion to table prevailed by (Record 927): 107 Yeas, 29 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gonzalez; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Margo; Marquez; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Torres; Truitt; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alvarado; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Farias; Gallego; Giddings; Gonzales, V.; Gutierrez; Hernandez Luna; Hochberg; Johnson; Lozano; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Naishtat; Oliveira; Quintanilla; Reynolds; Rodriguez; Turner; Vo; Walle.

Present, not voting — Mr. Speaker(C); Miles; Taylor, L.

Absent, Excused — Anchia; Cook; Deshotel; Farrar; Lucio; Strama; Veasey.

Absent — Alonzo; Guillen; Lyne; Thompson.

Amendment No. 32

Representative Reynolds offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

1. On page 14, line 9 strike "15" and substitute "10".

Amendment No. 32 was withdrawn.

Amendment No. 33

Representative Sheets offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) by striking page 14, line 23, through page 15, line 4, and substituting the following:

SECTION 22. Section 2210.453, Insurance Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) If the association does not purchase reinsurance as authorized by this section, the board, not later than June 1 of each year, shall submit to the commissioner, the legislative oversight board established under Subchapter N, the governor, the lieutenant governor, and the speaker of the house of representatives a report containing an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more. The report required by this subsection must:

(1) document and denominate the association's resources available to pay claims, including cash or other highly liquid assets, assessments that the association is projected to impose, pre-event and post-event bonding capacity, and private-sector recognized risk-transfer mechanisms, including catastrophe bonds and reinsurance;

(2) include an independent, third-party appraisal of the likelihood of an assessment, the maximum potential size of the assessment, and an estimate of the probability that the assessment would not be adequate to meet the association's needs; and

(3) include an analysis of financing alternatives to assessments that includes the costs of borrowing and the consequences that additional purchase of reinsurance, catastrophe bonds, or other private-sector recognized risk-transfer instruments would have in reducing the size or potential of assessments.

(d) A person who prepares a report required by Subsection (c) may not contract to provide any other service to the association, except for the preparation of similar reports, before the third anniversary of the date the last report prepared by the person under that subsection is submitted.

Amendment No. 33 was adopted.

Amendment No. 34

Representative Eiland offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

After page 16, line 14, insert the following:

SECTION _____. Subchapter L, Chapter 2210, Insurance Code, is amended by adding Section 2210.5510 to read as follows:

Sec. 2210.5515. SINGLE ADJUSTER PROGRAM. (a) A request for benefits under an insurance policy issued by the association shall be reported to, reviewed, and adjusted by the insurer that issued a homeowners, dwelling, condo, or other residential or commercial property policy for the property covered by the association.

(b) An insurer described in Subsection (a) shall process any request for benefits under an insurance policy issued by the association in the same manner as a request for benefits under a policy issued by the insurer.

(c) The insurer described in Subsection (a) may accept or reject a request for benefits under an insurance policy issued by the association on behalf of the association.

(d) The association shall pay a claim accepted under Subsection (b) within five business days of the date the insurer notifies the claimant the claim was accepted. If the payment of the claim or part of the claim is conditioned upon the performance of an act by the claimant, the insurer shall pay the claim not later than the fifth business day after the date the act is performed.

(e) The commissioner, by rule, shall determine the amount the association shall pay an insurer for any functions performed under this section. This amount shall be paid from the premiums collected by the association or other funds available to the association.

(f) The commissioner shall adopt procedures, including penalties, to ensure that an insurer performs the functions required by this section in a prompt, fair, and equitable manner.

Representative Smithee moved to table Amendment No. 34.

The motion to table prevailed by (Record 928): 100 Yeas, 40 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gonzalez; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Marquez; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Villarreal; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Gallego; Giddings; Gonzales, V.; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Raymond; Reynolds; Ritter; Rodriguez; Thompson; Turner; Vo; Walle; Weber.

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

Absent, Excused — Anchia; Cook; Deshotel; Farrar; Lucio; Strama; Veasey.

Absent — Quintanilla.

Amendment No. 35

Representative Eiland offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

- (1) On page 18, line 16, strike "EXCLUSIVE".
- (2) On page 18, line 17, strike "exclusive".

Amendment No. 35 was withdrawn.

Amendment No. 36

Representative Rodriguez offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

- (1) On page 20, line 6, strike "the association may request in writing the necessary information from the claimant" and substitute "the association shall request in writing, within ten (10) days of receiving notice of the claim, the necessary information from the claimant"

Amendment No. 36 was withdrawn.

Amendment No. 37

Representative Eiland offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

- (1) On page 22, strike the text on lines 18-27.
- (2) On page 23, line 1, strike "(e)" and substitute "(d)".

Representative Smithee moved to table Amendment No. 37.

The motion to table prevailed by (Record 929): 101 Yeas, 39 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gonzalez; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Marquez; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Gallego; Gonzales, V.; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Villarreal; Vo; Walle; Weber.

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

Absent, Excused — Anchia; Cook; Deshotel; Farrar; Lucio; Strama; Veasey.

Absent — Giddings.

Amendment No. 38

Representative L. Taylor offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

(1) On page 27, line 15, strike "the substantial evidence rule" and substitute "de novo".

(2) On page 27, between lines 19 and 20, insert:

(d) A claimant seeking judicial review under this section may file the petition in Travis County or the county in which the insured property that is the subject of the dispute is located.

Amendment No. 38 was withdrawn.

Amendment No. 39

Representative Alonzo offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) on page 27, by inserting the following appropriately numbered SECTION between lines 22 and 23 and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter N, Chapter 2210, Insurance Code, is amended by adding Section 2210.655 to read as follows:

Sec. 2210.655. STANDARDS OF CONDUCT: LEGISLATIVE OVERSIGHT BOARD. (a) Section 2210.012 applies to a member of the windstorm insurance legislative oversight board to the same extent and in the same manner as that section applies to a member of the board of directors of the association.

(b) A member of the windstorm legislative oversight board who violates Section 2210.012 is subject to any applicable civil or criminal penalty if the violation also constitutes a violation of another statute or rule.

Amendment No. 39 was withdrawn.

Amendment No. 40

Representative Hancock offered the following amendment to **CSHB 272**:

Amend **CSHB 272** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter H, Chapter 2210, Insurance Code, is amended by adding Section 2210.364 to read as follows:

Sec. 2210.364. CATASTROPHE RESERVE TRUST FUND SURCHARGE. (a) A policy issued by the association is subject to an annual premium surcharge in an amount equal to five percent of the premium for insurance coverage obtained through the association. The surcharge under this subsection is due on the issuance or renewal of the policy.

(b) A premium surcharge collected under this section shall be deposited in the catastrophe reserve trust fund. A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure to pay the surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

Amendment No. 40 was withdrawn.

Amendment No. 41

Representatives Bonnen, Flynn, Sheets, Paxton, L. Taylor, Hancock, Smithee, and Weber offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) as follows:

- (1) On page 11, line 1, strike "or".
- (2) On page 11, line 3, strike the underlined period and substitute "; or".
- (3) On page 11, between lines 3 and 4, insert:

"(4) a structure in which, or in any portion of which, an establishment is located that is used primarily for the operation of video lottery machines, eight-liners, or other gambling devices, regardless of whether the gambling devices are regulated under state law."

Amendment No. 41 was adopted.

Amendment No. 42

Representative Rodriguez offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

(1) On page 20, line 6, strike "the association may request in writing the necessary information from the claimant" and substitute "the association shall request in writing, within ten (10) days of receiving notice of the claim, the necessary information from the claimant"

Amendment No. 42 was withdrawn.

Amendment No. 43

Representative Rodriguez offered the following amendment to **CSHB 272**:

Amend **CSHB 272** as follows:

Add the following after the "panel." On page 26, line 15:

All meetings of the panel shall be open to any interested party. Notice of panel meetings shall be posted on the association and department websites no later than 7 days before the meeting. All meetings of the panel shall be broadcast live on the association website and archived on the association website for at least two years.

Representative Smithee moved to table Amendment No. 43.

The motion to table prevailed by (Record 930): 96 Yeas, 42 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Gallego; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano;

Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Nash; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Villarreal; Vo; Walle.

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

Absent, Excused — Anchia; Cook; Deshotel; Farrar; Lucio; Strama; Veasey.

Absent — Giddings; Landtroop; Perry.

Amendment No. 44

Representative Alonzo offered the following amendment to **CSHB 272**:

Amend **CSHB 272** (house committee printing) on page 27, by inserting the following appropriately numbered SECTION between lines 22 and 23 and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter N, Chapter 2210, Insurance Code, is amended by adding Section 2210.655 to read as follows:

Sec. 2210.655. STANDARDS OF CONDUCT: LEGISLATIVE OVERSIGHT BOARD. (a) Section 2210.012 applies to a member of the windstorm insurance legislative oversight board to the same extent and in the same manner as that section applies to a member of the board of directors of the association.

(b) A member of the windstorm legislative oversight board who violates Section 2210.012 is subject to any applicable civil or criminal penalty if the violation also constitutes a violation of another statute or rule.

Amendment No. 44 was withdrawn.

Amendment No. 45

Representative Martinez Fischer offered the following amendment to **CSHB 272**:

Amend **CSHB 272** by striking everything below the enacting clause and replace with the following.

SECTION 1. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Sections 2210.010 and 2210.011 to read as follows:

Sec. 2210.010. APPLICABILITY OF CERTAIN OTHER LAW. (a) A person insured under this chapter may not bring an action against the association under Chapter 541.

(b) Chapter 542 does not apply to the processing and settlement of claims by the association.

Sec. 2210.011. CERTAIN CONDUCT IN DISPUTE RESOLUTION PROHIBITED. A person insured under this chapter may not preside over a matter or action to which the association is a party, including by sitting as a judge or serving as an arbitrator.

SECTION 2. Section 2210.104, Insurance Code, is amended to read as follows:

Sec. 2210.104. OFFICERS; SALARIES AND BONUSSES. (a) The board of directors shall elect from the board's membership an executive committee consisting of a presiding officer, assistant presiding officer, and secretary-treasurer.

(b) The association shall post on the association's Internet website the salary of each officer of the association and any bonuses paid to an officer of the association.

SECTION 3. Section 2210.105, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (c) to read as follows:

(a) Except for an emergency meeting, the association shall:

(1) notify the department not later than the 11th day before the date of a meeting of the board of directors or of the members of the association; and

(2) not later than the seventh day before the date of a meeting of the board of directors, post notice of the meeting on the association's Internet website and the department's Internet website.

(b) Except for a closed meeting authorized by Subchapter D, Chapter 551, Government Code, a meeting of the board of directors or of the members of the association is open to[+:

~~[(1) the commissioner or the commissioner's designated representative;~~
and

~~[(2)] the public.~~

(b-1) A meeting of the board of directors or the members of the association, including a closed meeting authorized by Subchapter D, Chapter 551, Government Code, is open to the commissioner or the commissioner's designated representative.

(c) The association shall broadcast live on the association's Internet website all meetings of the board of directors.

SECTION 4. Section 2210.107, Insurance Code, is amended to read as follows:

Sec. 2210.107. PRIMARY BOARD OBJECTIVES; REPORT. (a) The primary objectives of the board of directors are to ensure that the association:

(1) operates in accordance with this chapter and commissioner rules;

(2) complies with sound insurance principles; and

(3) meets all standards imposed under this chapter.

(b) Not later than June 1 of each year, the association shall submit to the commissioner, the legislative oversight board established under Subchapter N, the governor, the lieutenant governor, and the speaker of the house of representatives a report evaluating the extent to which the board met the objectives described by Subsection (a) in the 12-month period immediately preceding the date of the report.

SECTION 5. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.108 to read as follows:

Sec. 2210.108. OPEN MEETINGS AND OPEN RECORDS. Except as specifically provided by this chapter or another law, the association is subject to Chapters 551 and 552, Government Code.

SECTION 6. Section 2210.202, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The commissioner shall adopt rules to simplify and streamline the process through which:

(1) a person who has an insurable interest in insurable property may apply with the association for insurance coverage; and

(2) a person insured under this chapter may apply with the association for renewal of the person's insurance coverage.

SECTION 7. Section 2210.203, Insurance Code, is amended by amending Subsection (a-1) and adding Subsection (a-2) to read as follows:

(a-1) [~~This subsection applies only to a structure constructed, altered, remodeled, or enlarged on or after September 1, 2009, and only for insurable property located in areas designated by the commissioner.~~] Notwithstanding Subsection (a), if all or any part of the property to be insured [~~which this subsection applies~~] is located in Zone A or another similar zone with a high level of flood risk or in Zone V or another similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program, [~~and if flood insurance under that federal program is available,~~] the association may not issue an insurance policy for initial or renewal coverage unless evidence is submitted to the association that the property to be covered under the policy is also covered by a flood insurance policy issued under the National Flood Insurance Program in an amount equal to or greater than the amount of coverage under the policy to be issued by the association. This subsection does not apply to property for which flood insurance is not available under the National Flood Insurance Program [~~is submitted to the association~~].

(a-2) An agent offering or selling a Texas windstorm and hail insurance policy [~~in any area designated by the commissioner under this subsection~~] shall offer flood insurance coverage required under Subsection (a-1) to a [~~the~~] prospective insured, if that coverage is available.

SECTION 8. The heading to Subchapter E, Chapter 2210, Insurance Code, is amended to read as follows:

SUBCHAPTER E. INSURANCE COVERAGE; CLAIMS SETTLEMENT AND PAYMENT

SECTION 9. Subchapter E, Chapter 2210, Insurance Code, is amended by adding Sections 2210.205, 2210.210, 2210.211, and 2210.212 to read as follows:

Sec. 2210.205. REQUIRED POLICY PROVISIONS: DEADLINE FOR FILING CLAIM; NOTICE CONCERNING ARBITRATION. (a) A windstorm and hail insurance policy issued by the association must:

(1) require an insured to file a claim under the policy not later than the first anniversary of the date on which the damage or loss that is the basis of the claim occurs; and

(2) contain, in boldface type, a conspicuous notice concerning the mandatory arbitration of coverage and claim disputes under Section 2210.553, including the prerequisites and deadlines for requesting arbitration described by Sections 2210.212 and 2210.553.

(b) The commissioner, on a showing of good cause by a person insured under this chapter, may extend the one-year period described by Subsection (a)(1) for a period not to exceed 90 days.

Sec. 2210.210. COVERAGE OF CERTAIN STRUCTURES PROHIBITED. The association may not issue coverage for the following structures, regardless of whether the structure is otherwise insurable property under this chapter:

(1) a wind turbine;

(2) a structure used primarily as a casino or other gambling establishment; or

(3) a structure used as a sexually oriented business, as defined by Section 243.002, Local Government Code.

Sec. 2210.211. PROOF OF OTHER COVERAGE REQUIRED FOR SETTLEMENT OF CERTAIN CLAIMS. (a) This section applies only to a claim filed under an association policy the issuance or renewal of which, under Section 2210.203(a-1), requires evidence of coverage by a flood insurance policy.

(b) The association may not pay or settle a claim described by Subsection (a) unless the person filing the claim provides evidence satisfactory to the association that, on the date of the loss that is the basis of the claim, the property insured under the association policy was also covered by a flood insurance policy in the amount required for issuance or renewal of the association policy under Section 2210.203(a-1).

Sec. 2210.212. NOTICE AND APPRAISAL OF CERTAIN CLAIMS. (a) Not later than the 30th day after the date a person insured under this chapter files a claim with the association, the association shall provide the person notice of whether the claim is accepted or denied and, if the claim is accepted, a written appraisal of the damage to the insured property.

(b) A person who receives notice that a claim is denied may, after providing the association the notice required by Subsection (f), request binding arbitration under Section 2210.553.

(c) Not later than the 60th day after the date the association provides a written appraisal under Subsection (a), the person shall:

(1) accept the written appraisal and request payment of the person's claim in accordance with the appraisal; or

(2) request a supplemental review of the claim by the association.

(d) Not later than the 30th day after the date of a request for a supplemental review under Subsection (c)(2), the association shall:

(1) conduct the requested supplemental review and, if necessary, revise the written appraisal originally provided under Subsection (b) to reflect any changes resulting from the supplemental review; or

(2) notify the person who filed the claim that the association will not conduct the requested supplemental review.

(e) On receipt of the results of a supplemental review conducted under Subsection (d)(1), or notice under Subsection (d)(2) that the association will not conduct a supplemental review, the person who filed the claim may:

(1) accept the written appraisal following the supplemental review and request payment of the claim in accordance with that appraisal; or

(2) after providing the association the notice required under Subsection (f), dispute the written appraisal by requesting binding arbitration in the manner described by Section 2210.553.

(f) Not later than the 30th day before the date a person requests binding arbitration under Section 2210.553, the person shall provide the association with written notice of the person's intent to request binding arbitration. The notice provided under this subsection must advise the association of each of the person's specific complaints concerning the association's denial of the claim or appraisal of the insured property, including the amount of damage that the person believes should have been but was not accounted for in any appraisal performed by the association.

(g) In addition to the notice required under Subsection (f), not later than the 30th day before the date of an arbitration under Section 2210.553, the person who filed the disputed claim and the association shall submit to the department all final offers of settlement concerning the disputed claim. The department, the person, and the association may not disclose the settlement offers received under this subsection to an arbitrator assigned under Section 2210.553.

SECTION 10. Section 2210.259, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A noncompliant residential structure insured by the association as of September 1, 2009, under Section 2210.251(f) that had been approved for insurability under the approval process regulations in effect on September 1, 2009, is subject to an annual premium surcharge in an amount determined under Subsection (c) [equal to 15 percent of the premium for insurance coverage obtained through the association]. The surcharge under this subsection applies to each policy issued or renewed by the association on or after the effective date of Sections 5 through 49, **HB 4409**, Acts of the 81st Legislature, Regular Session, 2009, and is due on the issuance or renewal of the policy.

(c) The commissioner, after receiving a recommendation from the board concerning the amount of the annual premium surcharge required under Subsection (a), by rule shall establish the amount of the annual premium surcharge. The amount of the surcharge must be actuarially justifiable and may not be less than 15 percent of the premium for insurance coverage obtained through the association. Before the commissioner by rule establishes the amount of the annual premium surcharge, the commissioner shall report to the legislative oversight board established under Subchapter N concerning the methodology the commissioner used to determine the amount of the annual premium surcharge.

SECTION 11. Section 2210.355(g), Insurance Code, is amended to read as follows:

(g) A commission paid to an agent must be reasonable, adequate, not unfairly discriminatory, and nonconfiscatory and must comply with rules adopted by the commissioner under Section 2210.356.

SECTION 12. Subchapter H, Chapter 2210, Insurance Code, is amended by adding Section 2210.356 to read as follows:

Sec. 2210.356. AGENT COMMISSIONS. (a) The commissioner by rule shall establish a commission structure for payment of an agent who submits an application for coverage to the association on behalf of a person who has an insurable interest in insurable property.

(b) The commission structure adopted by the commissioner must be fair and reasonable, taking into consideration the amount of work performed by an agent in submitting an application to the association and the prevailing commission structure in the private windstorm insurance market.

SECTION 13. Section 2210.453, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) If the association does not purchase reinsurance as authorized by this section, the board, not later than June 1 of each year, shall submit to the commissioner, the legislative oversight board established under Subchapter N, the governor, the lieutenant governor, and the speaker of the house of representatives a report containing an actuarial plan for paying losses in the event of a catastrophe with estimated damages of \$2.5 billion or more.

SECTION 14. Section 2210.501, Insurance Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) Except as provided by Subsection (d) and subject [Subject] to Section 2210.502, the maximum liability limits for coverage on a single insurable property may not be less than:

(1) \$350,000 for:

(A) a dwelling, including an individually owned townhouse unit;
and

(B) the corporeal movable property located in or about the dwelling and, as an extension of coverage, away from those premises, as provided under the policy;

(2) \$2,192,000 for a building, and the corporeal movable property located in the building, if the building is:

(A) owned by, and at least 75 percent of which is occupied by, a governmental entity; or

(B) not owned by, but is wholly and exclusively occupied by, a governmental entity;

(3) \$125,000 for individually owned corporeal movable property located in an apartment unit, residential condominium unit, or townhouse unit that is occupied by the owner of that property and, as an extension of coverage, away from those premises, as provided under the policy; and

(4) \$1,500,000 for:

(A) a structure other than a dwelling or a public building; and

(B) the corporeal movable property located in that structure and, as an extension of coverage, away from those premises, as provided under the policy.

(d) The maximum liability limits for insurable property the issuance or renewal of coverage by the association of which requires evidence of coverage by a flood insurance policy under Section 2210.203(a-1) may not exceed the maximum liability limits in effect for the property under the National Flood Insurance Program on the date the association policy is issued.

SECTION 15. Section 2210.502, Insurance Code, is amended by adding Subsection (e) to read as follows:

(e) The board of directors may not propose, and the commissioner may not approve, maximum liability limits for insurable property described by Section 2210.501(d), and for the corporeal movable property located in or about that property, that exceed the maximum liability limits in effect for the property or contents under the National Flood Insurance Program.

SECTION 16. The heading to Subchapter L, Chapter 2210, Insurance Code, is amended to read as follows:

SUBCHAPTER L. APPEALS AND OTHER ACTIONS; ARBITRATION

SECTION 17. Sections 2210.551(a) and (b), Insurance Code, are amended to read as follows:

(a) This section:

(1) does not apply to a person insured under this chapter who is required to resolve a dispute concerning the payment of, the amount of, or the denial of a particular claim under Section 2210.553; and

(2) applies only to:

(A) [(+)] a person not described by Subdivision (1) who is insured under this chapter or an authorized representative of the person; or

(B) [(2)] an affected insurer.

(b) A person or entity described by Subsection (a)(2) [(+)] who is aggrieved by an act, ruling, or decision of the association may appeal to the commissioner not later than the 30th day after the date of that act, ruling, or decision.

SECTION 18. The heading to Section 2210.552, Insurance Code, is amended to read as follows:

Sec. 2210.552. [CLAIM] DISPUTES OTHER THAN CLAIM AND COVERAGE DISPUTES; VENUE.

SECTION 19. Section 2210.552, Insurance Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided by Sections 2210.007, ~~[and]~~ 2210.106, and 2210.553, a person insured under this chapter who is aggrieved by an act, ruling, or decision of the association ~~[relating to the payment of, the amount of, or the denial of a claim]~~ may:

(1) bring an action against the association~~[-, including an action under Chapter 541]; or~~

(2) appeal the act, ruling, or decision under Section 2210.551.

(e) A person who brings an action against the association under this section:

(1) may recover the amount of actual damages, plus court costs and reasonable and necessary attorney's fees; and

(2) may not recover punitive or exemplary damages, including damages under Section 17.50, Business & Commerce Code.

SECTION 20. Subchapter L, Chapter 2210, Insurance Code, is amended by adding Sections 2210.553, 2210.554, and 2210.555 to read as follows:

Sec. 2210.553. ARBITRATION OF COVERAGE AND CLAIM DISPUTES. (a) A dispute involving an act, ruling, or decision of the association relating to the payment of, the amount of, or the denial of a particular claim:

(1) must be resolved through binding arbitration in accordance with this section; and

(2) may not be resolved in the manner described by Section 2210.551 or 2210.552.

(b) A person insured under this chapter who is aggrieved by an act, ruling, or decision of the association relating to the payment of, the amount of, or the denial of a claim may request binding arbitration of the person's grievance.

(c) A person insured under this chapter must, in the manner prescribed by the commissioner by rule, request binding arbitration under this section not later than the earlier of:

(1) the 90th day after the date the person receives under Section 2210.212 notice from the association that a claim is denied or receives notice concerning a supplemental review requested under Section 2210.212(c); or

(2) the second anniversary of the date on which the damage or loss that is the basis of the particular claim occurs.

(d) The commissioner, on a showing of good cause by a person insured under this chapter, may extend each of the deadlines described by Subsection (c) by a period not to exceed 90 days.

(e) The commissioner by rule shall establish procedures for the conduct of the arbitration of grievances under this section. The rules adopted under this subsection must:

(1) be consistent with any applicable rules of the American Arbitration Association that were in effect on the date on which the policy under which the denied claim is filed was issued;

(2) establish the qualifications necessary for an arbitrator to become certified to conduct arbitrations under this section, including prohibiting a person to whom Section 2210.011 applies from serving as an arbitrator under this section;

(3) establish a procedure through which arbitrators may become certified to conduct arbitrations under this section;

(4) require an arbitrator conducting an arbitration under this section to be certified by the department;

(5) provide that the commissioner will randomly assign a certified arbitrator to conduct an arbitration under this section;

(6) establish a procedure through which a certified arbitrator's fees under this section are paid, including the maximum allowable rate for those fees, which party or parties are liable for the payment of those fees, and the manner in which an arbitrator may seek the commissioner's approval of those fees;

(7) establish the parameters for mandatory and permissible discovery for an arbitration under this section; and

(8) establish deadlines for an arbitration conducted under this section and require an arbitrator conducting an arbitration under this section to issue a scheduling order in accordance with those deadlines.

(f) If a person insured under this chapter or the association is not satisfied with the commissioner's assignment of an arbitrator under Subsection (e)(5), either party may, not later than the 10th day after the date of assignment, request that the commissioner randomly assign a different arbitrator to the dispute. Each party may request one reassignment under this section, and the commissioner shall grant a request for reassignment authorized under this subsection.

(g) The procedure established by the commissioner under Subsection (e)(6) must require that an arbitrator's fees be approved by the commissioner before those fees are paid.

(h) In addition to the rules required under Subsection (e), the commissioner may adopt any other rules necessary to implement this section, including rules that are specific to a particular storm or particular period and are intended to prevent unfair deviations in, and to encourage fairness in, arbitration awards under this section.

(i) The department shall maintain and make publicly available a list of arbitrators certified to conduct arbitrations under this section.

(j) Except to the extent of any conflict with this section, Chapter 171, Civil Practice and Remedies Code, applies to an arbitration conducted under this section.

(k) A person insured under this chapter who requests binding arbitration under this section may be represented by an attorney.

Sec. 2210.554. ARBITRATION AWARDS; ATTORNEY'S FEES. (a) If, after an arbitration under Section 2210.553, the arbitrator awards damages to a person insured under this chapter in an amount that is 110 percent or more of the final offer of settlement from the association, the person insured under this chapter may also recover from the association reasonable and necessary attorney's fees.

(b) An arbitrator who awards damages to the person insured under this chapter may assess interest on the damage recovery owed the insured, at a rate of six percent per annum from the date of loss through the date of payment of the arbitration award by the association.

Sec. 2210.555. ABATEMENT OF ARBITRATION. (a) The association, not later than the 30th day after the date a person requests binding arbitration under Section 2210.553, may request from the commissioner an abatement of the arbitration if the association does not receive the notice required under Section 2210.212(f).

(b) The commissioner shall abate a requested arbitration if the commissioner finds that a person insured under this chapter did not provide the notice required under Section 2210.212(f).

(c) An abatement under this section continues until the 30th day after the date notice is provided in compliance with Section 2210.212(f).

SECTION 21. Section 2210.551(e), Insurance Code, is repealed.

SECTION 22. This Act applies only to a Texas windstorm and hail insurance policy, and a dispute arising under a Texas windstorm and hail insurance policy, delivered, issued for delivery, or renewed by the Texas Windstorm Insurance Association on or after the 30th day after the effective date of this Act. A Texas windstorm and hail insurance policy, and a dispute arising under a Texas windstorm and hail insurance policy, delivered, issued for delivery, or renewed by the Texas Windstorm Insurance Association before the 30th day after the effective date of this Act, are governed by the law in effect on the date the policy was delivered, issued for delivery, or renewed, and the former law is continued in effect for that purpose.

SECTION 23. The Texas Windstorm Insurance Association shall amend the association's plan of operation to conform to the changes in law made by this Act not later than January 1, 2012.

SECTION 24. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

Amendment No. 45 was withdrawn.

(Anchia and Strama now present)

Amendment No. 46

Representative L. Taylor offered the following amendment to **CSHB 272**:

Amend **CSHB 272** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.260 to read as follows:

Sec. 2210.260. ALTERNATIVE ELIGIBILITY FOR COVERAGE. (a) On and after January 1, 2012, a person who has an insurable interest in a residential structure may obtain insurance coverage through the association for that structure without obtaining a certificate of compliance under Section 2210.251(g) in accordance with this section and rules adopted by the commissioner.

(b) The department may issue an alternative certification for a residential structure if the person who has an insurable interest in the structure demonstrates that at least one qualifying structural building component of the structure has been:

(1) inspected by a department inspector or by a qualified inspector; and
(2) determined to be in compliance with applicable building code standards, as set forth in the plan of operation.

(c) The commissioner shall adopt reasonable and necessary rules to implement this section. The rules adopted under this section must establish which structural building components are considered qualifying structural building components for the purposes of Subsection (b), taking into consideration those items that are most probable to generate losses for the association's policyholders and the cost to upgrade those items.

(d) Except as provided in Section 2210.251(f), a person who has an insurable interest in a residential structure that is insured by the association as of January 1, 2012, but for which the person has not obtained a certificate of compliance under Section 2210.251(g), must obtain an alternative certification under this section before the association, on or after January 1, 2013, may renew coverage for the structure.

(e) Each residential structure for which a person obtains an alternative certification under this section must comply with:

(1) the requirements of this chapter, including Section 2210.258; and
(2) the association's underwriting requirements, including maintaining the structure in an insurable condition and paying premiums in the manner required by the association.

(f) The association shall develop and implement an actuarially sound rate, credit, or surcharge that reflects the risks presented by structures with reference to which alternative certifications have been obtained under this section. A rate, credit, or surcharge under this subsection may vary based on the number of qualifying structural building components included in a structure with reference to which an alternative certification is obtained under this section.

Amendment No. 46 was adopted.

CSHB 272, as amended, was passed to engrossment. (Burnam recorded voting no.)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hunter requested permission for the Committee on Calendars to meet while the house is in session, at 7:05 p.m. today, in 3W.9, to set a calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 7:05 p.m. today, 3W.9, for a formal meeting, to set a calendar.

FIVE-DAY POSTING RULE SUSPENDED

Representative Gallego moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Criminal Jurisprudence to consider **SB 144, SB 158, SB 159, SB 167, SB 348, SB 377, SB 462, SB 496, SB 779, SB 838, SB 1010, SB 1066, SB 1273, SB 1522, SB 1551, SB 1681, SB 1701, SB 1702**, and pending business at 8 a.m. tomorrow in JHR 120.

The motion prevailed.

Representative V. Gonzales moved to suspend the five-day posting rule to allow the Committee on Border and Intergovernmental Affairs to consider **HCR 146, SB 1364, and SB 1462** at 8:30 a.m. tomorrow in E1.010.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Criminal Jurisprudence, 8 a.m. tomorrow, JHR 120, for a public hearing, to consider **SB 144, SB 158, SB 159, SB 167, SB 348, SB 377, SB 462, SB 496, SB 779, SB 838, SB 1010, SB 1066, SB 1273, SB 1522, SB 1551, SB 1681, SB 1701, SB 1702**, and pending business.

Border and Intergovernmental Affairs, 8:30 a.m. tomorrow, E1.010, for a public hearing, to consider **HCR 146, SB 1364, and SB 1462**.

HB 3036 - VOTE RECONSIDERED

Representative Kolkhorst moved to reconsider the vote by which **HB 3036** failed to pass.

The motion to reconsider prevailed.

**HB 3036 ON THIRD READING
(by Alvarado)**

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

HB 3036, A bill to be entitled An Act relating to the municipal sales and use tax for street maintenance.

HB 3036 was read third time earlier today and failed to pass.

Representative Alvarado moved to postpone consideration of **HB 3036** until 6:59 a.m. tomorrow.

The motion prevailed.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the Committee on Calendars:

T. King on motion of Raymond.

**SB 250 ON THIRD READING
(Anchia, Gallego, and Hartnett - House Sponsors)**

SB 250, A bill to be entitled An Act relating to protective orders for stalking victims.

SB 250 was read third time earlier today and was postponed until this time.

SB 250 was passed by (Record 931): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett;

Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Cook; Deshotel; Farrar; Lucio; Veasey.

Absent, Excused, Committee Meeting — King, T.

Absent — McClendon.

STATEMENT OF VOTE

When Record No. 931 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

FIVE-DAY POSTING RULE SUSPENDED

Representative Raymond moved to suspend the five-day posting rule to allow the Committee on Human Services to consider **SB 71**, **SB 223**, **SB 264**, **SB 426**, **SB 436**, **SB 1178**, and pending business at 8:15 a.m. Thursday, May 12 in E2.030.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Human Services, 8:15 a.m. Thursday, May 12, E2.030, for a public hearing, to consider **SB 71**, **SB 223**, **SB 264**, **SB 426**, **SB 436**, **SB 1178**, and pending business.

(T. King now present)

HB 3308 ON THIRD READING

(by Rodriguez)

HB 3308, A bill to be entitled An Act relating to the operation of plug-in electric motor vehicles.

HB 3308 was read third time earlier today and was postponed until this time.

Representative Rodriguez moved to postpone consideration of **HB 3308** until 8 a.m. tomorrow.

The motion prevailed.

(Bonnen in the chair)

CSHB 2746 ON SECOND READING
(by Martinez Fischer)

CSHB 2746, A bill to be entitled An Act relating to liability for the additional tax imposed on land appraised for ad valorem tax purposes as qualified open-space land in the event of a change of use of the land if the land is transferred to a charitable organization for purposes of building housing for sale without profit to a low-income individual or family.

CSHB 2746 was read second time on May 9 and was postponed until 6 a.m. today.

Representative Anchia moved to postpone consideration of **CSHB 2746** until 7:37 p.m. today.

The motion prevailed.

CSSB 1125 ON SECOND READING
(Anchia - House Sponsor)

CSSB 1125, A bill to be entitled An Act relating to energy efficiency goals and programs, public information regarding energy efficiency programs, and the participation of loads in certain energy markets.

CSSB 1125 was considered in lieu of **CSHB 1629**.

CSSB 1125 was read second time.

LEAVE OF ABSENCE GRANTED

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

Schwertner on motion of Price.

CSSB 1125 - (consideration continued)

Amendment No. 1

Representative Chisum offered the following amendment to **CSSB 1125**:

Amend **CSSB 1125** as follows:

- (1) On page 1, line 7, strike "(a) and (b)" and substitute "(a), (b) and (d)"
- (2) On page 5, between lines 7 and 8, insert the following:

(d) The commission shall establish a procedure for reviewing and evaluating market-transformation program options described by this subsection and other options. In evaluating program options, the commission may consider the ability of a program option to reduce costs to customers through reduced demand, energy savings, and relief of congestion. Utilities may choose to implement any program option approved by the commission after its evaluation in order to satisfy the goal in Subsection (a), including:

- (1) energy-smart schools;
- (2) appliance retirement and recycling;
- (3) air conditioning system tune-ups;
- (4) the installation of variable speed air conditioning system, motors and drives;
- (5) the use of trees or other landscaping for energy efficiency.;
- (6) ~~(5)~~ customer energy management and demand response programs;
- (7) ~~(6)~~ high performance residential and commercial buildings that will achieve the levels of energy efficiency sufficient to qualify those buildings for federal tax incentives;
- (8) commissioning services for commercial and institutional buildings that result in operational and maintenance practices that reduce the buildings' energy consumption;
- (9) ~~(7)~~ programs for customers who rent or lease their residence or commercial space;
- (10) ~~(8)~~ programs providing energy monitoring equipment to customers that enable a customer to better understand the amount, price, and time of the customer's energy use;
- (11) ~~(9)~~ energy audit programs for owners and other residents of single-family or multifamily residences and for small commercial customers;
- (12) ~~(10)~~ net-zero energy new home programs;
- (13) ~~(11)~~ solar thermal or solar electric programs; ~~and~~
- (14) ~~(12)~~ programs for using windows and other glazing systems, glass doors, and skylights in residential and commercial buildings that reduce solar gain by at least 30 percent from the level established for the federal Energy Star windows program;
- (15) data center efficiency programs; and
- (16) energy use programs with measurable and verifiable results that reduce energy consumption through behavioral changes that lead to efficient use patterns and practices.

Amendment No. 1 was adopted.

CSSB 1125 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HARDCASTLE: In Section 1 of the bill, it added Section 39.905(a)(3)(A) and (B) where they are revising energy efficiency goals, is that correct?

REPRESENTATIVE ANCHIA: Yes, that's correct, we're revising the goal on energy efficiency from 10 percent to 30 percent of annual growth in demand beginning in 2013. We're also including a transition period for moving to a goal based on percent of peak demand metric for those electric utilities who achieve actual reductions of four-tenths of one percent of their summer weather adjusted peak demand.

HARDCASTLE: Thank you, and could you explain the intent behind the transition period?

ANCHIA: You bet. Under this bill, it's the intent that the electric utilities goal will not change from the growth and demand goal to the percent of peak demand goal until that utility actually hits four-tenths of one percent of its summer weather peak demands. Once that happens with the utility it, will transition to a goal of four-tenths of its summer weather adjusted peak demand.

REMARKS ORDERED PRINTED

Representative Hardcastle moved to print remarks between Representative Anchia and Representative Hardcastle.

The motion prevailed.

(Deshotel now present)

CSSB 1125, as amended, was passed to third reading by (Record 932): 77 Yeas, 56 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Bohac; Branch; Brown; Burkett; Burnam; Carter; Castro; Chisum; Crownover; Darby; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Farias; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gutierrez; Hardcastle; Harless; Hernandez Luna; Hochberg; Hunter; Johnson; Keffer; King, T.; Kleinschmidt; Kuempel; Larson; Lozano; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Phillips; Pitts; Price; Quintanilla; Reynolds; Rodriguez; Scott; Shelton; Smith, T.; Smith, W.; Smithee; Strama; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Woolley.

Nays — Aliseda; Anderson, R.; Beck; Berman; Bonnen; Button; Cain; Callegari; Christian; Craddick; Creighton; Davis, J.; Elkins; Fletcher; Flynn; Frullo; Garza; Gooden; Hamilton; Hancock; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Isaac; Jackson; King, S.; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Miller, D.; Miller, S.; Murphy; Parker; Paxton; Peña; Perry; Riddle; Ritter; Sheets; Simpson; Solomons; Taylor, V.; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Cook; Farrar; Lucio; Schwertner; Veasey.

Absent — Coleman; Driver; Guillen; Howard, D.; King, P.; Menendez; Morrison; Pickett; Raymond; Sheffield; Taylor, L.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 932. I intended to vote no.

Harless

I was shown voting no on Record No. 932. I intended to vote yes.

C. Howard

When Record No. 932 was taken, I was in the house but away from my desk. I would have voted yes.

D. Howard

When Record No. 932 was taken, I was in the house but away from my desk. I would have voted yes.

P. King

I was shown voting yes on Record No. 932. I intended to vote no.

Nash

I was shown voting yes on Record No. 932. I intended to vote no.

Truitt

CSHB 1629 - LAID ON THE TABLE SUBJECT TO CALL

Representative Anchia moved to lay **CSHB 1629** on the table subject to call.

The motion prevailed.

CSHB 2746 ON SECOND READING

(by Martinez Fischer)

CSHB 2746, A bill to be entitled An Act relating to liability for the additional tax imposed on land appraised for ad valorem tax purposes as qualified open-space land in the event of a change of use of the land if the land is transferred to a charitable organization for purposes of building housing for sale without profit to a low-income individual or family.

CSHB 2746 was read second time on May 9, postponed until 6 a.m. today, and was again postponed until this time.

Amendment No. 1

Representative Martinez Fischer offered the following amendment to **CSHB 2746**:

Amend **CSHB 2746** (house committee printing) on page 1 by striking lines 11-18 and substituting the following:

(p) The sanctions provided by Subsection (a) do not apply to real property transferred to an organization described by Section 11.181(a) if the organization converts the real property to a use for which the real property is eligible for an exemption under Section 11.181(a). This subsection does not apply to the sanctions provided by Subsection (a) in connection with a change in use described by this subsection that are due to a county or school district unless the governing body of the county or school district, as applicable, waives the sanctions in the manner required by law for official action by the body.

Amendment No. 1 was adopted.

CSHB 2746 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE CHISUM: Mr. Fischer, I just wanted to establish some legislative intent here. We're taking ag. land, which is under ag. exemption, and moving it to a charitable organization, in this case being Habitat for Humanity. But, it's not your intent in this bill to change the criteria for ag. exempt land and the transition. The transition is completely separate from the ag. exemption, the rest of the land?

REPRESENTATIVE MARTINEZ FISCHER: Absolutely not, we don't want to interfere with the ag. exemption. It'll exist as it is. This just prevents a look-back when the property is changed for affordable housing for Habitat.

REMARKS ORDERED PRINTED

Representative Chisum moved to print remarks between Representative Martinez Fischer and Representative Chisum.

The motion prevailed.

CSHB 2746, as amended, was passed to engrossment. (Landtroop and Perry recorded voting no.)

(Farrar now present)

**SB 551 ON SECOND READING
(Otto - House Sponsor)**

SB 551, A bill to be entitled An Act relating to liability for interest on ad valorem taxes on improvements that escaped taxation in a previous year.

SB 551 was considered in lieu of **HB 234**.

SB 551 was read second time and was passed to third reading.

HB 234 - LAID ON THE TABLE SUBJECT TO CALL

Representative Darby moved to lay **HB 234** on the table subject to call.

The motion prevailed.

**CSHB 3790 ON SECOND READING
(by Pitts)**

CSHB 3790, A bill to be entitled An Act relating to certain state fiscal matters; providing penalties.

CSHB 3790 was read second time on May 3, postponed until May 4, postponed until May 5, postponed until May 9, and was again postponed until 8 a.m. today.

Representative Hochberg moved to postpone consideration of **CSHB 3790** until 8 a.m. tomorrow.

The motion prevailed.

CSHB 3640 ON SECOND READING**(by Pitts)**

CSHB 3640, A bill to be entitled An Act relating to the remittance and allocation of certain taxes and fees.

CSHB 3640 was read second time on May 3, postponed until May 4, postponed until May 5, postponed until May 9, and was again postponed until 8 a.m. today.

Representative Hochberg moved to postpone consideration of **CSHB 3640** until 8 a.m. tomorrow.

The motion prevailed.

CSHB 3665 ON SECOND READING**(by Otto)**

CSHB 3665, A bill to be entitled An Act relating to state fiscal matters related to general government.

CSHB 3665 was read second time on May 3, postponed until May 4, postponed until May 5, postponed until May 9, and was again postponed until 8 a.m. today.

Representative Hochberg moved to postpone consideration of **CSHB 3665** until 8 a.m. tomorrow.

The motion prevailed.

CSHB 3639 ON SECOND READING**(by Pitts and Aycock)**

CSHB 3639, A bill to be entitled An Act relating to state fiscal matters related to public and higher education.

CSHB 3639 was read second time on May 3, postponed until May 4, postponed until May 5, postponed until May 9, and was again postponed until 8 a.m. today.

Representative Hochberg moved to postpone consideration of **CSHB 3639** until 8 a.m. tomorrow.

The motion prevailed.

HB 3648 ON SECOND READING**(by Otto)**

HB 3648, A bill to be entitled An Act relating to state fiscal matters related to the judiciary.

HB 3648 was read second time on May 3, postponed until May 4, postponed until May 5, postponed until May 9, and was again postponed until 8 a.m. today.

Representative Hochberg moved to postpone consideration of **HB 3648** until 8 a.m. tomorrow.

The motion prevailed.

CSHB 3418 ON SECOND READING
(by Darby)

CSHB 3418, A bill to be entitled An Act relating to certain state fiscal matters related to natural resources or the environment.

CSHB 3418 was read second time on May 3, postponed until May 4, postponed until May 5, postponed until May 9, and was again postponed until 8 a.m. today.

Representative Darby moved to postpone consideration of **CSHB 3418** until 8 a.m. tomorrow.

The motion prevailed.

SB 1338 ON SECOND READING
(Geren - House Sponsor)

SB 1338, A bill to be entitled An Act relating to the membership, powers, and duties of the State Preservation Board.

SB 1338 was considered in lieu of **HB 3132**.

SB 1338 was read second time.

Representative Geren moved to postpone consideration of **SB 1338** until 8 a.m. Friday, May 13.

The motion prevailed.

CSHB 400 ON SECOND READING
(by Eissler, Aycock, Crownover, C. Anderson, Garza, et al.)

CSHB 400, A bill to be entitled An Act relating to flexibility for public schools to administer primary and secondary education efficiently.

CSHB 400 was read second time on May 9, postponed until later that day, and was again postponed until 9:30 a.m. today.

CSHB 400 - POINT OF ORDER

Representative Y. Davis raised a point of order against further consideration of **CSHB 400** under Rule 6, Section 16 of the House Rules.

The speaker sustained the point of order.

CSHB 400 was returned to the Committee on Calendars.

CSHB 2233 ON SECOND READING
(by Huberty, Rodriguez, et al.)

CSHB 2233, A bill to be entitled An Act relating to certain contracts entered into by school districts for another entity to provide food services at one or more district schools.

CSHB 2233 was read second time on May 4, postponed until May 9, and was again postponed until 3 p.m. today.

Representative Huberty moved to postpone consideration of **CSHB 2233** until 7 a.m. tomorrow.

The motion prevailed.

**MAJOR STATE CALENDAR
HOUSE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

(Veasey now present)

**HB 1950 ON SECOND READING
(by L. Taylor)**

HB 1950, A bill to be entitled An Act relating to the continuation and operation of the office of public insurance counsel.

Representative L. Taylor moved to postpone consideration of **HB 1950** until 8 a.m. tomorrow.

The motion prevailed.

**HB 1951 ON SECOND READING
(by L. Taylor)**

HB 1951, A bill to be entitled An Act relating to the continuation and operation of the Texas Department of Insurance and the operation of certain insurance programs; imposing administrative penalties.

Representative L. Taylor moved to postpone consideration of **HB 1951** until 8:25 p.m. today.

The motion prevailed.

(Lavender in the chair)

**CSHB 3647 ON SECOND READING
(by Turner)**

CSHB 3647, A bill to be entitled An Act relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

CSHB 3647 was passed to engrossment. (Perry recorded voting no.)

**CSHB 13 ON SECOND READING
(by Kolkhorst, S. King, Truitt, and Zerwas)**

CSHB 13, A bill to be entitled An Act relating to the Medicaid program and alternate methods of providing health services to low-income persons in this state.

Amendment No. 1

Representative Kolkhorst offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) as follows:

(1) On page 3, line 7, strike "and".

(2) On page 3, line 11, between "coverage" and the underlined period, insert the following:

; and

(11) allow for unmatched municipal and county government funds or expenditures to serve as the state portion under a federal matching program for the provision of mental health services to eligible individuals

Amendment No. 1 was adopted.

Amendment No. 2

Representative Kolkhorst offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) on page 1, line 20, between "flexibility" and "to", by inserting "consistent with federal law".

Amendment No. 2 was adopted.

Amendment No. 3

Representative Kolkhorst offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) on page 3, line 6, by striking "patient-centered" and substituting "person-centered".

Amendment No. 3 was adopted.

CSHB 13, as amended, was passed to engrossment.

CSHB 3517 ON SECOND READING

(by Branch)

CSHB 3517, A bill to be entitled An Act relating to the administration and business affairs of public institutions of higher education.

(Muñoz in the chair)

Representative Branch moved to postpone consideration of **CSHB 3517** until 6:50 a.m. tomorrow.

The motion prevailed.

CONSTITUTIONAL AMENDMENTS CALENDAR**HOUSE JOINT RESOLUTIONS****SECOND READING**

The following resolutions were laid before the house and read second time:

CSHJR 109 ON SECOND READING
(by Orr, Aycock, Hochberg, Pitts, Otto, et al.)

CSHJR 109, A joint resolution proposing a constitutional amendment to clarify references to the permanent school fund and to allow the legislature by general law to direct the General Land Office to distribute revenue derived from permanent school fund land or properties to the available school fund.

Representative Flynn moved to postpone consideration of **CSHJR 109** until 9:30 p.m. today.

The motion prevailed.

GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING

The following bills were laid before the house and read second time:

HB 3055 ON SECOND READING
(by Peña, Garza, Aliseda, Torres, and Margo)

HB 3055, A bill to be entitled An Act relating to the penalty for providing false information on an application for a ballot to be voted by mail.

HB 3055 - POINT OF ORDER

Representative Farrar raised a point of order against further consideration of **HB 3055** under Rule 4, Section 20(a)(1) of the House Rules on the grounds that the sworn statement of witnesses is incomplete.

The point of order was withdrawn.

Representative Peña moved to postpone consideration of **HB 3055** until 9 p.m. today.

The motion prevailed.

HB 3498 ON SECOND READING
(by Aliseda, et al.)

HB 3498, A bill to be entitled An Act relating to the penalty for illegal voting.

HB 3498 - LAID ON THE TABLE SUBJECT TO CALL

Representative Aliseda moved to lay **HB 3498** on the table subject to call.

The motion prevailed.

CSHB 2194 ON SECOND READING
(by L. Taylor)

CSHB 2194, A bill to be entitled An Act relating to the conduct and administration of elections.

Amendment No. 1

Representative L. Taylor offered the following amendment to **CSHB 2194**:

Amend **CSHB 2194** (house committee printing) as follows:

(1) Strike page 1, line 4, through page 2, line 11.

(2) Add the following appropriately numbered SECTION to the bill:

SECTION ____ . Section 174.092(a), Election Code, is amended to read as follows:

(a) The biennial state convention shall be convened on any day in June or July.

(3) Renumber the remaining SECTIONS of the bill accordingly.

Amendment No. 1 was adopted.

CSHB 2194, as amended, was passed to engrossment.

HB 2589 ON SECOND READING

(by Peña)

HB 2589, A bill to be entitled An Act relating to the delivery of a voter registration application to the registrar by a volunteer deputy registrar; providing a criminal penalty.

HB 2589 - POINT OF ORDER

Representative Martinez raised a point of order against further consideration of **HB 2589** under Rule 4, Section 18(b) of the House Rules on the grounds that the committee minutes are incomplete.

The point of order was withdrawn.

Representative Peña moved to postpone consideration of **HB 2589** until 9:15 p.m. today.

The motion prevailed.

CSHB 2190 ON SECOND READING

(by Elkins)

CSHB 2190, A bill to be entitled An Act relating to the deadline by which provisional ballots must be processed for certain elections.

Amendment No. 1

Representative Elkins offered the following amendment to **CSHB 2190**:

Amend **CSHB 2190** as follows:

(1) On page 1, line 7, strike "in" and substitute "for an election held on the date of".

(2) Add a new appropriately numbered SECTION to read as follows:

SECTION ____ . Section 67.012(a), Election Code, is amended to read as follows:

(a) The governor shall conduct the state canvass [~~not earlier than the 15th or later than the 30th day after election day~~] at the time set by the secretary of state:

(1) not earlier than the 15th or later than the 30th day after election day;

or

(2) for an election described by Section 65.051(a-1), not earlier than the 18th or later than the 33rd day after election day.

(3) Renumber the existing SECTIONS as appropriate.

Amendment No. 1 was adopted.

CSHB 2190, as amended, was passed to engrossment.

HB 2359 ON SECOND READING
(by Hopson)

HB 2359, A bill to be entitled An Act relating to direct campaign expenditures.

HB 2359 was passed to engrossment by (Record 933): 109 Yeas, 28 Nays, 2 Present, not voting.

Yeas — Aliseda; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Martinez; Martinez Fischer; Menendez; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Truitt; Veasey; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Davis, Y.; Dukes; Dutton; Eiland; Farrar; Giddings; Gonzales, V.; Gutierrez; Hernandez Luna; Howard, D.; King, T.; Mallory Caraway; McClendon; Naishtat; Quintanilla; Raymond; Reynolds; Rodriguez; Taylor, V.; Thompson; Turner; Villarreal; Vo.

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

Absent, Excused — Cook; Lucio; Schwertner.

Absent — Gonzales, L.; Lozano; Marquez; Miles; Oliveira; Orr; Otto; Torres.

STATEMENTS OF VOTE

When Record No. 933 was taken, my vote failed to register. I would have voted no.

L. Gonzales

When Record No. 933 was taken, I was in the house but away from my desk. I would have voted yes.

Marquez

I was shown voting yes on Record No. 933. I intended to vote no.

Paxton

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Homeland Security and Public Safety meeting is cancelled.

(Bonnen in the chair)

CSHB 804 ON SECOND READING

(by Lewis, Aliseda, Branch, Harless, et al.)

CSHB 804, A bill to be entitled An Act relating to the offense of illegal voting by a person who is not a United States citizen.

CSHB 804 - POINT OF ORDER

Representative Alonzo raised a point of order against further consideration of **CSHB 804**.

The point of order was withdrawn.

Representative Lewis moved to postpone consideration of **CSHB 804** until 9:30 p.m. today.

The motion prevailed.

(S. Davis in the chair)

CSHB 628 ON SECOND READING

(by Callegari)

CSHB 628, A bill to be entitled An Act relating to contracts by governmental entities and related professional services and to public works performance and payment bonds.

CSHB 628 - POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **CSHB 628** under Rule 4, Section 11 and Rule 4, Section 12 of the House Rules on the grounds that proper notice of the committee meeting was not given.

The point of order was withdrawn.

Representative Callegari moved to postpone consideration of **CSHB 628** until 9:30 p.m. today.

The motion prevailed.

SB 1505 ON SECOND READING

(Lewis - House Sponsor)

SB 1505, A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of a real property interest in oil or gas in place.

SB 1505 was considered in lieu of **HB 889**.

SB 1505 was passed to third reading.

HB 889 - LAID ON THE TABLE SUBJECT TO CALL

Representative Lewis moved to lay **HB 889** on the table subject to call.

The motion prevailed.

CSHB 1766 ON SECOND READING

(by Crownover, Truitt, Zerwas, Anchia, L. Taylor, et al.)

CSHB 1766, A bill to be entitled An Act relating to the creation of a voluntary consumer-directed health plan for certain individuals eligible to participate in the insurance coverage provided under the Texas Employees Group Benefits Act and their qualified dependents.

Amendment No. 1

Representative Anchia offered the following amendment to **CSHB 1766**:

Amend **CSHB 1766** (house committee printing) on page 8, between lines 6 and 7, by inserting:

Sec. 1551.464. EXPIRATION. This subchapter expires September 1, 2017.

Amendment No. 1 was adopted.

CSHB 1766, as amended, was passed to engrossment. (D. Howard and Thompson recorded voting no.)

CSHB 1205 ON SECOND READING

(by Turner, Allen, Aliseda, Rodriguez, and Gallego)

CSHB 1205, A bill to be entitled An Act relating to the procedures for reducing or terminating community supervision and the establishment of certain time credits through which a defendant's period of community supervision is reduced.

CSHB 1205 - POINT OF ORDER

Representative Carter raised a point of order against further consideration of **CSHB 1205**.

The point of order was withdrawn.

Representative Turner moved to postpone consideration of **CSHB 1205** until 9:45 p.m. today.

The motion prevailed.

CSHB 2707 ON SECOND READING

(by Burnam, Quintanilla, Gutierrez, and Menendez)

CSHB 2707, A bill to be entitled An Act relating to the holding of an interest in certain alcoholic beverage licenses, permits, or premises by certain persons whose alcoholic beverage license or permit has been revoked.

CSHB 2707 was passed to engrossment. (P. King recorded voting no.)

HB 1228 ON SECOND READING
(by Dutton)

HB 1228, A bill to be entitled An Act relating to foreclosure of a property owners' association assessment lien.

Amendment No. 1

Representative Dutton offered the following amendment to **HB 1228**:

Amend **HB 1228** as follows:

On page 1, line 15, strike ":",

On page 1, lines 16 through 18, strike the following: "(A) is first in priority; or

"(B) if the assessment lien is first in priority, is next in priority to the assessment lien"

On page 1, lines 15 through 18, after "lien" and before ":" insert the following: "is inferior or subordinate to the association's lien and is evidenced by a deed of trust"

Amendment No. 1 was adopted.

Amendment No. 2

Representative Dutton offered the following amendment to **HB 1228**:

Amend **HB 1228** (house committee printing) by striking page 1, lines 15-18, and substituting the following:
lien of record on the property whose lien is first in priority; and

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Menendez offered the following amendment to **HB 1228**:

Amend **HB 1228** by adding the following and renumbering the sections appropriately:

SECTION 1. Chapter 12, Property Code, is amended by adding Section 12.0171 to read as follows:

Sec. 12.0171. AFFIDAVIT AS RELEASE OF ASSESSMENT LIEN. (a) A property owner whose property is subject to a recorded notice of a property owners' assessment lien may, at any time, file an affidavit that substantially complies with Subsection (e) in the real property records of the county in which the lien notice is recorded.

(b) Subject to Subsection (c) and except as provided by Subsection (d), an affidavit filed under Subsection (a) serves as a release of record of the property owners' association assessment lien referenced in the affidavit.

(c) A bona fide purchaser or a mortgagee for value or a successor or assign of a bona fide purchaser or mortgagee for value may rely conclusively on an affidavit filed under Subsection (a) if included with the affidavit is evidence that:

(1) the property owner sent a letter and a copy of the affidavit, without attachments and before execution of the affidavit, notifying the property owners' association of the owner's intent to file the affidavit; and

(2) 30 or more days before the affidavit was filed, the letter and the affidavit were sent to the property owners' association by registered or certified mail, return receipt requested, to the address provided in the management certificate recorded under Section 209.004.

(d) An affidavit filed under Subsection (a) does not serve as a release of record of a property owners' association assessment lien if the association files a contradicting affidavit in the real property records of the county in which the affidavit is filed asserting that:

(1) the affidavit filed by the owner is untrue; or

(2) another reason exists as to why the assessment lien attaches to the owner's property.

(e) An affidavit filed under Subsection (a) must be in substantially the following form:

PROPERTY OWNER'S AFFIDAVIT AS RELEASE OF PROPERTY OWNERS' ASSOCIATION ASSESSMENT LIEN

Before me, the undersigned authority, on this day personally appeared ("Affiant(s)") (insert name of one of more affiants) who, being first duly sworn, upon oath states:

(1) My/our name is/are (insert name of Affiant(s)). I/we own the following described land ("Land"):

(describe the property that is the subject of the property owners' association assessment lien)

(2) This affidavit is made for the purpose of effecting a release of the property owners' association assessment lien recorded in (refer to recording information of property owners' association assessment lien) ("Assessment Lien") as to the Land.

(3) The debt on which the Assessment Lien in based has been satisfied in its entirety or is not owed by us.

(4) Attached to this affidavit is evidence that:

(A) Affiant(s) sent a letter and a copy of this affidavit, without attachments and before execution of the affidavit, notifying the association claiming the Assessment Lien of this affidavit and the Affiant(s)' intent to file for record this affidavit; and

(B) the letter and this affidavit were sent by registered or certified mail, return receipt requested, 30 or more days before this affidavit was filed to the property owners' association claiming the Assessment Lien.

(5) This affidavit serves as a release of the Assessment Lien as to the Land in accordance with Section 12.0171, Property Code.

Signed on this ___ day of ___, ___.

(Signature of Affiant(s))

State of _____

County of _____

SWORN TO AND SUBSCRIBED before me on the ___ day of ___, 20__.

My commission expires:

 Notary Public, State of Texas
 Notary's printed name:

(f) A person who knowingly causes an affidavit with false information to be executed and recorded under this section is liable for the penalties for filing a false affidavit, including the penalties for the commission of an offense under Section 37.02, Penal Code. The attorney general may sue to collect the penalty. A person who negligently causes an affidavit with false information to be executed and recorded under this section is liable to a party injured by the affidavit for actual damages. If the attorney general or an injured party bringing suit substantially prevails in an action under this subsection, the court may award reasonable attorney's fees and court costs to the prevailing party.

Amendment No. 3 was adopted.

HB 1228, as amended, was passed to engrossment.

HB 3001 ON SECOND READING
(by Thompson, et al.)

HB 3001, A bill to be entitled An Act relating to the electronic monitoring of certain high-risk sex offenders; providing a penalty.

Amendment No. 1

Representative Thompson offered the following amendment to **HB 3001**:

Amend **HB 3001** (house committee report) on page 5, lines 10-11, by striking "the person who is subject to this chapter fails" and substituting "the person is subject to this chapter and fails".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Thompson offered the following amendment to **HB 3001**:

Amend **HB 3001** (house committee report) as follows:

(1) On page 5, line 16, strike "from any source, including" and substitute "or other money from any source, including the legislature or".

(2) On page 5, line 20, strike "2011" and substitute "2017".

Amendment No. 2 was adopted.

Amendment No. 3

Representative Villarreal offered the following amendment to **HB 3001**:

Amend **HB 3001** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 62, Code of Criminal Procedure, is amended by adding Article 62.063 to read as follows:

Art. 62.063. LOCAL LAW ENFORCEMENT AUTHORITY FEE. (a) A local law enforcement authority may charge and collect from a person required to register under this chapter the following fees:

(1) a fee in an amount not to exceed \$20, to be charged and collected the first time the person registers or verifies registration with the authority under Article 62.051 or 62.052 and annually in each year that the person, during any month of the year, verifies registration with the authority under Article 62.052, 62.058, or 62.202; and

(2) following a change of address:

(A) a fee in an amount not to exceed \$20, to be charged and collected the first time the person reports to the authority under Article 62.055, if at the time of the change of address the authority has not yet been designated as the person's primary registration authority; or

(B) a fee in an amount not to exceed \$5, to be charged and collected the first time the person reports to the authority under Article 62.055, if at the time of the change of address the authority is designated as the person's primary registration authority.

(b) Not less than 90 percent of a fee collected under Subsection (a) shall be remitted to the comptroller in the manner directed by the comptroller. Fees remitted under this subsection may be used only to defray the costs incurred by the department in performing the department's duties under this chapter.

(c) The portion of a fee that remains after remittance under Subsection (b) may be retained by the local law enforcement authority collecting the fee and used only to defray the costs incurred by the authority in performing the authority's duties under this chapter.

(d) A local law enforcement authority shall keep records of any fees collected under this article.

SECTION ____ . Article 62.052(a), Code of Criminal Procedure, is amended to read as follows:

(a) An extrajurisdictional registrant is required to:

(1) comply with the annual verification requirements of Article 62.058 in the same manner as a person who is required to verify registration on the basis of a reportable conviction or adjudication; and

(2) pay fees under Article 62.063 in the same manner and in the same amount as a person who is required to pay those fees on the basis of a reportable conviction or adjudication.

SECTION ____ . Article 62.053(a), Code of Criminal Procedure, is amended to read as follows:

(a) Before a person who will be subject to registration under this chapter is due to be released from a penal institution, the Texas Department of Criminal Justice or the Texas Youth Commission shall determine the person's level of risk to the community using the sex offender screening tool developed or selected under Article 62.007 and assign to the person a numeric risk level of one, two, or three. Before releasing the person, an official of the penal institution shall:

(1) inform the person that:

(A) not later than the later of the seventh day after the date on which the person is released or after the date on which the person moves from a previous residence to a new residence in this state or not later than the first date the applicable local law enforcement authority by policy allows the person to register or verify registration, the person must register or verify registration with the local law enforcement authority in the municipality or county in which the person intends to reside;

(B) not later than the seventh day after the date on which the person is released or the date on which the person moves from a previous residence to a new residence in this state, the person must, if the person has not moved to an intended residence, report to the applicable entity or entities as required by Article 62.051(h) or (j) or 62.055(e);

(C) not later than the seventh day before the date on which the person moves to a new residence in this state or another state, the person must report in person to the local law enforcement authority designated as the person's primary registration authority by the department and to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person;

(D) not later than the 10th day after the date on which the person arrives in another state in which the person intends to reside, the person must register with the law enforcement agency that is identified by the department as the agency designated by that state to receive registration information, if the other state has a registration requirement for sex offenders;

(E) not later than the 30th day after the date on which the person is released, the person must apply to the department in person for the issuance of an original or renewal driver's license or personal identification certificate and a failure to apply to the department as required by this paragraph results in the automatic revocation of any driver's license or personal identification certificate issued by the department to the person; ~~and~~

(F) the person must notify appropriate entities of any change in status as described by Article 62.057; and

(G) the person may be required to pay the applicable fees described by Article 62.063;

(2) require the person to sign a written statement that the person was informed of the person's duties as described by Subdivision (1) or Subsection (g) or, if the person refuses to sign the statement, certify that the person was so informed;

(3) obtain the address or, if applicable, a detailed description of each geographical location where the person expects to reside on the person's release and other registration information, including a photograph and complete set of fingerprints; and

(4) complete the registration form for the person.

SECTION _____. Article 62.055, Code of Criminal Procedure, is amended by adding Subsection (j) to read as follows:

(j) A person who reports to the person's primary registration authority or another local law enforcement authority as required by Subsection (a) shall pay to the authority each applicable fee that the authority requires the person to pay under Article 62.063, in the amount and at the time that is designated by the authority.

SECTION _____. Article 62.058, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f) A person who reports to the person's primary registration authority as required by Subsection (a) shall pay to the authority each applicable fee that the authority requires the person to pay under Article 62.063, in the amount and at the time that is designated by the authority.

SECTION _____. Article 62.202, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) A person who reports to the person's primary registration authority as required by Subsection (a) shall pay to the authority each applicable fee that the authority requires the person to pay under Article 62.063, in the amount and at the time that is designated by the authority.

SECTION _____. The changes in law made by this Act in amending Chapter 62, Code of Criminal Procedure, apply to a person subject to Chapter 62, Code of Criminal Procedure, for an offense committed or conduct engaged in before, on, or after the effective date of this Act.

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Madden offered the following amendment to **HB 3001**:

Amend **HB 3001** (house committee printing) as follows:

(1) Strike SECTION 3 of the bill (page 5, line 20, through page 6, line 9).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS accordingly:

SECTION _____. Subchapter A, Chapter 62, Code of Criminal Procedure, is amended by adding Article 62.0052 to read as follows:

Art. 62.0052. ELECTRONIC MAIL REPORTS FOR STATE LEGISLATORS. (a) The department shall maintain an electronic mail report service to which a member of the house of representatives or the senate of this state may electronically subscribe.

(b) The electronic mail report service maintained under Subsection (a) must:

(1) allow a subscribing representative or senator to request for each zip code any portion of which is located in the representative's or senator's district notification of:

(A) the release from a penal institution or placement on deferred adjudication community supervision, community supervision, or juvenile probation of a person who expects to reside or resides in that zip code and is required to register under this chapter; and

(B) any change in address of a person who expects to reside or resides in that zip code and is required to register under this chapter; and

(2) not less frequently than monthly, deliver to the subscribing representative or senator a report containing the information described by Subdivision (1).

(c) The department must include any public information described by Article 62.005 in an electronic mail report sent to a subscribing representative or senator.

SECTION _____. Subchapter B, Chapter 62, Code of Criminal Procedure, is amended by adding Article 62.0531 to read as follows:

Art. 62.0531. DETERMINATION OF PREDATORY RISK LEVEL. (a) In this article, "sexually predatory conduct" means conduct that is engaged in for the purpose of victimization and that:

(1) is directed toward a stranger, a person of casual acquaintance with whom no substantial relationship exists, or a person with whom a relationship has been established or promoted for the purpose of victimization; and

(2) violates:

(A) Section 21.11(a)(1), 22.011, or 22.021, Penal Code;

(B) Section 43.25, Penal Code;

(C) Section 20.04(a)(4), Penal Code, if the conduct is committed with the intent to violate or abuse the victim of the conduct sexually; or

(D) Section 30.02, Penal Code, if the conduct is punishable under Subsection (d) of that section and is committed with the intent to engage in conduct described by Paragraph (A) or (C).

(b) In addition to assigning to a person a numeric risk level of one, two, or three under Article 62.053(a), before a person who will be subject to registration under this chapter and who will be described by Article 62.063(b) on or after release is due to be released from a penal institution, the Texas Department of Criminal Justice or the Texas Youth Commission, as applicable, using the dynamic risk assessment tool developed or adopted by the Council on Sex Offender Treatment under Section 110.164, Occupations Code, shall:

(1) determine the likelihood that the person will engage in sexually predatory conduct after being released from the institution; and

(2) assign to the person a predatory risk level of low, medium, or high.

SECTION _____. Subchapter B, Chapter 62, Code of Criminal Procedure, is amended by adding Article 62.063 to read as follows:

Art. 62.063. MONITORING OF CERTAIN HIGH-RISK REGISTRANTS.

(a) In this article, "monitoring system" means an electronic monitoring service, global positioning satellite service, or other appropriate technological service that is designed to track a person's location.

(b) This article applies only to a person 18 years of age or older who is released from a penal institution, who is required to register under this chapter as the result of a reportable conviction or adjudication, and who:

(1) is not otherwise subject to monitoring under Chapter 61A;

(2) is not under the supervision and control of:

(A) the Texas Youth Commission;

(B) a community supervision and corrections department; or

(C) the parole division of the Texas Department of Criminal Justice; or

(3) has not been civilly committed under Chapter 841, Health and Safety Code.

(c) A person described by Subsection (b) who, under Article 62.0531, is assigned a predatory risk level of high shall participate in any monitoring system program implemented under Subsection (d). A person's duty to participate in the program expires on the third anniversary of the date the person is released from the penal institution.

(d) Subject to the receipt of one or more grants awarded by the criminal justice division of the governor's office, the department shall implement and coordinate a monitoring system program that tracks the location of persons subject to this article. A monitoring system program implemented under this subsection must require:

(1) the department to provide to each local law enforcement authority designated as the primary registration authority under this chapter for a person subject to this article monitoring system equipment that is sufficient to track the location of the person;

(2) each local law enforcement authority designated as a person's primary registration authority under this chapter to use the monitoring system equipment provided under Subdivision (1) to verify the authenticity of any geographically verifiable information contained in the registration form of a person subject to this article, including the person's residence; and

(3) the manufacturer or vendor of the monitoring system equipment provided to a local law enforcement authority under Subdivision (1) to provide training and technological support to the authority with respect to the equipment.

(e) A monitoring system that is part of a monitoring system program described by Subsection (d) must track a person's location and periodically provide a cumulative report of the tracked person's location to the department. The monitoring system is not required to be capable of tracking a person's location in real time or providing a real-time report of the person's location to the department.

(f) A person who is not indigent and who is required to participate in a monitoring system program described by Subsection (d) is responsible for the cost of the monitoring system and monthly shall pay to the person's primary registration authority and to the department the amount that the primary registration authority or department, as applicable, determines is necessary to defray that entity's cost of operating the system with respect to the person during the preceding month.

(g) In the manner prescribed by the criminal justice division of the governor's office, the department shall report to the division the amounts of any money received by the department under Subsection (f). The division shall treat that money as program income for the department and shall use the reported amounts to offset the amounts of grants awarded by the division to the department.

(h) The public safety director of the department shall adopt rules as necessary to implement and coordinate the monitoring system program described by Subsection (d).

(i) Notwithstanding any other provision of this article, this article does not apply to a person who is released from a penal institution before the date that the monitoring system program is implemented and becomes fully operational.

SECTION _____. Section 110.164(a), Occupations Code, is amended to read as follows:

(a) The council shall develop or adopt a dynamic risk assessment tool to be used in determining the likelihood that a person who is confined in a penal institution and will become subject to Chapter 62, Code of Criminal Procedure, on being released from the institution will:

(1) engage in sexually predatory conduct; or

(2) otherwise commit an offense described by Article 62.001(5), Code of Criminal Procedure, ~~after being released from the institution].~~

SECTION _____. The Department of Public Safety shall ensure that the electronic mail report service required to be maintained under Article 62.0052, Code of Criminal Procedure, as added by this Act, becomes fully functional and able to receive subscription requests and shall begin to respond appropriately to those requests not later than January 1, 2012.

SECTION _____. (a) Not later than September 15, 2011, the Department of Public Safety shall issue a request for qualifications or proposal for the purchase of any monitoring system equipment necessary to operate the monitoring system program described by Article 62.063, Code of Criminal Procedure, as added by this Act, and to operate the monitoring system program described by Chapter 61A, Code of Criminal Procedure, as added by this Act. The department may consider only those responses to the request for qualifications or proposal that are received from, and may only contract with, a manufacturer of the monitoring system equipment.

(b) The selection process through which the Department of Public Safety chooses a manufacturer with which to contract under Subsection (a) of this section must include side-by-side test comparisons of all products being considered. In awarding a contract under Subsection (a) of this section, the department may not give greater weight to cost considerations than to considerations concerning the product test results, product reliability and functionality, and the protection of public safety.

(c) Subject to the receipt of one or more grants awarded by the criminal justice division of the governor's office, the Department of Public Safety shall ensure that the monitoring system program required under Article 62.063, Code of Criminal Procedure, as added by this Act, becomes fully operational not later than February 29, 2012.

Amendment No. 4 was adopted.

HB 3001, as amended, was passed to engrossment.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

HB 1951 ON SECOND READING
(by L. Taylor)

HB 1951, A bill to be entitled An Act relating to the continuation and operation of the Texas Department of Insurance and the operation of certain insurance programs; imposing administrative penalties.

HB 1951 was read second time earlier today and was postponed until this time.

Amendment No. 1

Representative L. Taylor offered the following amendment to **HB 1951**:
Floor Packet Page No. 1

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ . TEXAS WINDSTORM INSURANCE ASSOCIATION

SECTION ____ . Section 83.002, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) This chapter also applies to:

(1) a person appointed as a qualified inspector under Section 2210.254 or 2210.255; and

(2) a person acting as a qualified inspector under Section 2210.254 or 2210.255 without being appointed as a qualified inspector under either of those sections.

SECTION ____ . Section 2210.105, Insurance Code, is amended by amending Subsection (b) and adding Subsections (b-1), (e), and (f) to read as follows:

(b) Except for a closed meeting authorized by Subchapter D, Chapter 551, Government Code, a meeting of the board of directors or of the members of the association is open to[+:

~~[(1) the commissioner or the commissioner's designated representative;~~
and

~~[(2)]~~ the public.

(b-1) A meeting of the board of directors or the members of the association, including a closed meeting authorized by Subchapter D, Chapter 551, Government Code, is open to the commissioner or the commissioner's designated representative.

(e) The association shall:

(1) broadcast live on the association's Internet website all meetings of the board of directors, other than closed meetings; and

(2) maintain on the association's Internet website an archive of meetings of the board of directors.

(f) A recording of a meeting must be maintained in the archive required under Subsection (e) through and including the second anniversary of the meeting.

SECTION _____. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.108 to read as follows:

Sec. 2210.108. OPEN MEETINGS AND OPEN RECORDS. Except as specifically provided by this chapter or another law, the association is subject to Chapters 551 and 552, Government Code.

SECTION _____. Section 2210.202(b), Insurance Code, is amended to read as follows:

(b) A property and casualty agent must submit an application for initial ~~the~~ insurance coverage on behalf of the applicant on forms prescribed by the association. A person insured under this chapter may submit an application for renewal coverage directly to the association on forms prescribed by the association. An [The] application for initial or renewal coverage must contain:

(1) a statement as to whether the applicant has submitted or will submit the premium in full from personal funds or, if not, to whom a balance is or will be due; and

(2) ~~[Each application for initial or renewal coverage must also contain]~~ a statement that the agent acting on behalf of the applicant possesses proof of the declination described by Subsection (a) and proof of flood insurance coverage or unavailability of that coverage as described by Section 2210.203(a-1), regardless of whether the agent or the applicant submits the application for coverage.

SECTION _____. Sections 2210.203(a) and (c), Insurance Code, are amended to read as follows:

(a) If the association determines that the property for which an application for initial insurance coverage is made is insurable property, the association, on payment of the premium, shall direct the issuance of an insurance policy as provided by the plan of operation.

(c) A policy may be renewed annually on application for renewal as long as the property continues to be insurable property. If the association determines that the property for which an application for renewal insurance coverage is made is insurable property, the association shall direct the issuance of a renewal insurance policy as provided by the plan of operation and may collect the premium for the policy directly from the applicant for renewal insurance coverage.

SECTION _____. Sections 2210.204(d) and (e), Insurance Code, are amended to read as follows:

(d) If an insured requests cancellation of the insurance coverage, the association shall refund the unearned premium, less any minimum retained premium set forth in the plan of operation, payable to the insured and the holder of an unpaid balance. The property and casualty agent who received a commission as the result of the issuance of an association policy providing the canceled coverage ~~[submitted the application]~~ shall refund the agent's commission on any unearned premium in the same manner.

(e) For cancellation of insurance coverage under this section, the minimum retained premium in the plan of operation must be for a period of not less than 90 [~~180~~] days, except for events specified in the plan of operation that reflect a significant change in the exposure or the policyholder concerning the insured property, including:

- (1) the purchase of similar coverage in the voluntary market;
- (2) sale of the property to an unrelated party;
- (3) death of the policyholder; or
- (4) total loss of the property.

SECTION _____. Section 2210.254, Insurance Code, is amended by adding Subsection (e) to read as follows:

(e) The department may establish an annual renewal period for persons appointed as qualified inspectors.

SECTION _____. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.2551 to read as follows:

Sec. 2210.2551. EXCLUSIVE ENFORCEMENT AUTHORITY; RULES.

(a) The department has exclusive authority over all matters relating to the appointment and oversight of qualified inspectors for purposes of this chapter.

(b) The commissioner by rule shall establish criteria to ensure that a person seeking appointment as a qualified inspector under this subchapter, including an engineer seeking appointment under Section 2210.255, possesses the knowledge, understanding, and professional competence to perform windstorm inspections under this chapter and to comply with other requirements of this chapter.

SECTION _____. The heading to Section 2210.256, Insurance Code, is amended to read as follows:

Sec. 2210.256. DISCIPLINARY PROCEEDINGS REGARDING APPOINTED INSPECTORS AND CERTAIN OTHER PERSONS.

SECTION _____. Section 2210.256, Insurance Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) In addition to any other action authorized under this section, the commissioner ex parte may enter an emergency cease and desist order under Chapter 83 against a qualified inspector, or a person acting as a qualified inspector, if:

(1) the commissioner believes that:

(A) the qualified inspector has:

(i) through submitting or failing to submit to the department sealed plans, designs, calculations, or other substantiating information, failed to demonstrate that a structure or a portion of a structure subject to inspection meets the requirements of this chapter and department rules; or

(ii) refused to comply with requirements imposed under this chapter or department rules; or

(B) the person acting as a qualified inspector is acting without appointment as a qualified inspector under Section 2210.254 or 2210.255; and

(2) the commissioner determines that the conduct described by Subdivision (1) is fraudulent or hazardous or creates an immediate danger to the public.

SECTION _____. Section 2210.258(b), Insurance Code, is amended to read as follows:

(b) The association may not insure a structure described by Subsection (a) until:

(1) the structure has been inspected for compliance with the plan of operation in accordance with Section 2210.251(a); and

(2) except as provided by Section 2210.260, a certificate of compliance has been issued for the structure in accordance with Section 2210.251(g).

SECTION _____. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.260 to read as follows:

Sec. 2210.260. ALTERNATIVE ELIGIBILITY FOR COVERAGE. (a) On and after January 1, 2012, a person who has an insurable interest in a residential structure may obtain insurance coverage through the association for that structure without obtaining a certificate of compliance under Section 2210.251(g) in accordance with this section and rules adopted by the commissioner.

(b) The department may issue an alternative certification for a residential structure if the person who has an insurable interest in the structure demonstrates that at least one qualifying structural building component of the structure has been:

(1) inspected by a department inspector or by a qualified inspector; and

(2) determined to be in compliance with applicable building code standards, as set forth in the plan of operation.

(c) The commissioner shall adopt reasonable and necessary rules to implement this section. The rules adopted under this section must establish which structural building components are considered qualifying structural building components for the purposes of Subsection (b), taking into consideration those items that are most probable to generate losses for the association's policyholders and the cost to upgrade those items.

(d) Except as provided in Section 2210.251(f), a person who has an insurable interest in a residential structure that is insured by the association as of January 1, 2012, but for which the person has not obtained a certificate of compliance under Section 2210.251(g), must obtain an alternative certification under this section before the association, on or after January 1, 2013, may renew coverage for the structure.

(e) Each residential structure for which a person obtains an alternative certification under this section must comply with:

(1) the requirements of this chapter, including Section 2210.258; and

(2) the association's underwriting requirements, including maintaining the structure in an insurable condition and paying premiums in the manner required by the association.

(f) The association shall develop and implement an actuarially sound rate, credit, or surcharge that reflects the risks presented by structures with reference to which alternative certifications have been obtained under this section. A rate, credit, or surcharge under this subsection may vary based on the number of qualifying structural building components included in a structure with reference to which an alternative certification is obtained under this section.

SECTION _____. This article applies only to a Texas windstorm and hail insurance policy delivered, issued for delivery, or renewed by the Texas Windstorm Insurance Association on or after the 30th day after the effective date of this Act. A Texas windstorm and hail insurance policy delivered, issued for delivery, or renewed by the Texas Windstorm Insurance Association before the 30th day after the effective date of this Act, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION _____. The Texas Windstorm Insurance Association shall, not later than January 1, 2012, amend the association's plan of operation as necessary to conform to the changes in law made by this article.

Amendment No. 1 was adopted. (The vote was reconsidered later today, and Amendment No. 1 was amended by Amendment No. 22 and adopted, as amended.)

Amendment No. 2

Representative Eiland offered the following amendment to **HB 1951**:

Floor Packet Page No. 5

Amend **HB 1951** (house committee printing) by striking the enacting clause, line 5, page 1.

Representative L. Taylor moved to table Amendment No. 2.

The motion to table prevailed by (Record 934): 101 Yeas, 42 Nays, 2 Present, not voting.

Yeas — Aliseda; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gonzalez; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Cook; Lucio; Schwertner.

Absent — Coleman; Miles.

Amendment No. 3

Representative L. Taylor offered the following amendment to **HB 1951**:

Floor Packet Page No. 3

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ . ADJUSTER ADVISORY BOARD

SECTION __.001. (a) The adjuster advisory board established under this section is composed of the following nine members appointed by the commissioner:

- (1) two public insurance adjusters;
- (2) two members who represent the general public;
- (3) two independent adjusters;
- (4) one adjuster who represents a domestic insurer authorized to engage in business in this state;
- (5) one adjuster who represents a foreign insurer authorized to engage in business in this state; and
- (6) one representative of the Independent Insurance Agents of Texas.

(b) A member who represents the general public may not be:

- (1) an officer, director, or employee of:
 - (A) an adjuster or adjusting company;
 - (B) an insurance agent or agency;
 - (C) an insurance broker;
 - (D) an insurer; or
 - (E) any other business entity regulated by the department;
- (2) a person required to register as a lobbyist under Chapter 305, Government Code; or
- (3) a person related within the second degree of affinity or consanguinity to a person described by Subdivision (1) or (2).

(c) The advisory board shall make recommendations to the commissioner regarding:

- (1) matters related to the licensing, testing, and continuing education of licensed adjusters;
- (2) matters related to claims handling, catastrophic loss preparedness, ethical guidelines, and other professionally relevant issues; and
- (3) any other matter the commissioner submits to the advisory board for a recommendation.

(d) A member of the advisory board serves without compensation. If authorized by the commissioner, a member is entitled to reimbursement for reasonable expenses incurred in attending meetings of the advisory board.

(e) The advisory board is subject to Chapter 2110, Government Code.

Amendment No. 3 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 4

Representative Farrar offered the following amendment to **HB 1951**:
Floor Packet Page No. 6

Amend **HB 1951** (house committee printing) as follows:

(1) On page 2, line 2, strike "2023" and substitute "2017".

Amendment No. 4 was withdrawn.

Amendment No. 5

Representative Castro offered the following amendment to **HB 1951**:
Floor Packet Page No. 11

Amend **HB 1951** (house committee printing) as follows:

(1) On page 15, lines 24 and 25, strike "Section 2254.003(a), Insurance Code, is amended to read as follows" and substitute "Sections 2254.003(a) and (b), Insurance Code, are amended to read as follows".

(2) On page 16, between lines 2 and 3, insert the following:

(b) Except as provided by Section 2254.004(c), if the commissioner determines that an insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory, as described by Section 2251.051, the commissioner shall ~~may~~:

~~[(1)]~~ order the insurer to refund directly to each affected policyholder the portion of the premium, plus interest on that amount, that is excessive or unfairly discriminatory~~], if that portion of the premium is at least 7.5 percent of the total premium charged for the coverage; or~~

~~[(2)] if that portion of the premium is less than 7.5 percent of the total premium, order the insurer to provide, to each affected policyholder:~~

~~[(A) who renews the policy, a future premium discount equal to the amount of the excessive or unfairly discriminatory portion of the premium, plus interest on that amount; and~~

~~[(B) who does not renew or whose coverage is otherwise terminated, a refund in the amount described by Subdivision (1)].~~

(3) In ARTICLE 3 of the bill, add the following appropriately numbered SECTION and renumber subsequent SECTIONS of the ARTICLE accordingly:

SECTION 3. __. Chapter 2254, Insurance Code, is amended by adding Section 2254.005 to read as follows:

Sec. 2254.005. ADMINISTRATIVE PENALTY. If the commissioner determines after a hearing that an insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory, as described by Section 2251.051, the commissioner shall order the insurer to pay an administrative penalty in the amount of \$100 for each policy delivered, issued for delivery, or renewed at the excessive or unfairly discriminatory rate. This penalty is in addition to any other penalties imposed under this code.

Amendment No. 5 was withdrawn.

Amendment No. 6

Representative Darby offered the following amendment to **HB 1951**:
Floor Packet Page No. 15

Amend **HB 1951** (house committee printing) as follows:

(1) On page 21, strike lines 4 and 5 and substitute the following:

SECTION 5.001. Section 2703.153, Insurance Code, is amended by amending Subsections (c) and (d) and adding Subsections (h) and (i) to read as follows:

(2) On page 21, between lines 15 and 16, insert the following:

(d) A title insurance company or a title insurance agent aggrieved by a department requirement concerning the submission of information may bring a suit in a district court in Travis County alleging that the request for information:

(1) is unduly burdensome; or

(2) is not a request for information material to fixing and promulgating premium rates or another matter that may be the subject of the periodic ~~biennial~~ hearing and is not a request reasonably designed to lead to the discovery of that information.

(h) The contents of the statistical report, including any amendments to the statistical report, must be established in a rulemaking hearing under Subchapter B, Chapter 2001, Government Code.

(i) An amendment to the contents of the statistical report may not apply retroactively.

(3) Add the following appropriately numbered SECTIONS to ARTICLE 5 of the bill:

SECTION 5.__. Section 2502.055(a), Insurance Code, is amended to read as follows:

(a) The activities described in this section are not rebates. Nothing in this subchapter prohibits a title insurance company or a title insurance agent from:

(1) engaging in ~~legal~~ promotional and educational activities that are not conditioned on the referral of title insurance business and not prohibited by Subchapter B, Chapter 541;

(2) purchasing advertising promoting the title insurance company or the title insurance agent at market rates from any person in any publication, event, or media;

(3) delivering to a party in the transaction or the party's representative legal documents or funds which are directly or indirectly related to a transaction closed by the title insurance company or title insurance agent; ~~or~~

(4) participating in an association of attorneys, builders, developers, realtors, or other real estate practitioners provided that the level of such participation does not exceed normal participation of a volunteer member of the association and is not activity that would ordinarily be performed by paid staff of an association; or

(5) providing continuing education courses at market rates, regardless of whether participants receive credit hours.

SECTION 5. Section 2651.007, Insurance Code, is amended by adding Subsections (d), (e), (f), and (g) to read as follows:

(d) Not later than the 20th business day after the date the department receives a renewal application, the department shall notify the applicant in writing of any deficiencies in the application that render the renewal application incomplete.

(e) Not later than the fifth business day after the date the renewal application is complete, the department shall notify the applicant in writing of the date that the renewal application is complete.

(f) A renewal application is automatically approved on the 30th business day after the date the renewal application is complete, unless on or before that date the department notifies the applicant in writing of the factual grounds on which the department proposes to deny the license under Section 2651.301.

(g) The department may provide a notice required under this section by e-mail.

SECTION 5. Section 2651.009, Insurance Code, is amended by amending Subsection (c) and adding Subsections (c-1), (c-2), and (c-3) to read as follows:

(c) Not later than the 20th business day after the date the department receives a notice under Subsection (b), the department shall notify the title insurance agent and appointing title insurance company in writing of any deficiencies in the notice that render the notice incomplete. A notice under Subsection (b) is considered complete on the date the department receives the notice, unless the department provides notice of the deficiencies under this section.

(c-1) Not later than the fifth business day after the date the notice under Subsection (b) is complete, the department shall notify the title insurance agent and appointing title insurance company in writing of the date that the notice under Subsection (b) is complete.

(c-2) The appointment is effective on the eighth business day following the date ~~the department receives~~ the ~~completed~~ notice of appointment is complete and the department receives the fee, unless the department proposes to reject ~~rejects~~ the appointment. If the department proposes to reject ~~rejects~~ the appointment, the department shall notify the title insurance agent and the appointing title insurance company ~~state~~ in writing of the factual grounds on which the department proposes to reject the appointment ~~reasons for rejection~~ not later than the seventh business day after the date on which the ~~department receives the completed~~ notice of appointment is complete.

(c-3) The department may provide a notice required under this section by e-mail.

SECTION 5. Subchapter G, Chapter 2651, Insurance Code, is amended by adding Sections 2651.3015 and 2651.303 to read as follows:

Sec. 2651.3015. PROHIBITED GROUNDS FOR REJECTION, DELAY, OR DENIAL. (a) Except as provided by Subsection (b) or (c), the department may not reject, delay, or deny a notice of appointment under Section 2651.009 based wholly or partly on a pending department audit or complaint investigation

or a pending disciplinary action against a title insurance agent or appointing title insurance company that has not been finally closed or resolved by a final order issued by the commissioner on or before the date on which the notice is received by the department.

(b) The department may reject a notice of appointment under Section 2651.009 if the department determines that the appointing title insurance company or the title insurance agent intentionally made a material misstatement in the notice of appointment or attempted to have the appointment approved by fraud or misrepresentation.

(c) The department may delay approval of a notice of appointment if:

(1) the title insurance agent or the appointing title insurance company is the subject of a criminal investigation or prosecution; or

(2) the deputy commissioner of the title division of the department makes a good faith determination that there is a credible suspicion that there are ongoing or continuing acts of fraud by the title insurance agent or appointing title insurance company.

(d) Except as provided by Subsection (e) or (f), the department may not delay or deny a renewal application under Section 2651.007 based wholly or partly on a department audit or complaint investigation of, or disciplinary or enforcement action against, an applicant or license holder that is pending and has not been finally closed or resolved by a final order issued by the commissioner on or before the date on which the application is filed.

(e) The department may deny a renewal application under Section 2651.007 if the department determines that the applicant or license holder intentionally made a material misstatement in the renewal application or attempted to obtain the license renewal by fraud or misrepresentation.

(f) The department may delay a renewal application if:

(1) the applicant or license holder is the subject of a criminal investigation or prosecution; or

(2) the deputy commissioner of the title division of the department makes a good faith determination that there is a credible suspicion that there are ongoing or continuing acts of fraud by the applicant or license holder.

Sec. 2651.303. NOTICE OF DISCIPLINARY OR ENFORCEMENT ACTION; AUTOMATIC DISMISSAL. (a) The department shall notify a license holder in writing of a disciplinary or enforcement action against the license holder not later than the 30th business day after the date the department assigns a file number to the action, except that this subsection does not apply to a file or action:

(1) that is the subject of a pending criminal investigation or prosecution; or

(2) about which the deputy commissioner of the title division of the department makes a good faith determination that there is a credible suspicion that there are ongoing or continuing acts of fraud by a person who is the subject of the action.

(b) A notice required by Subsection (a) may be provided by e-mail and must provide a license holder fair notice of the alleged facts known by the department on the date of the notice that constitute grounds for the action.

(c) A disciplinary or enforcement action is automatically dismissed with prejudice, unless the department serves a notice of hearing on the license holder not later than the 60th business day after the date the department receives a hearing request from the license holder.

(d) The department may provide information about an enforcement action, including a copy of a notice issued under this section, to each title insurance company with which a title insurance agent has, or proposes to obtain, an appointment.

SECTION 5. Subchapter B, Chapter 2652, Insurance Code, is amended by adding Section 2652.059 to read as follows:

Sec. 2652.059. DENIAL OF LICENSE APPLICATION OR LICENSE RENEWAL; APPROVAL. (a) Not later than the 20th business day after the date the department receives a license application or a license renewal under this chapter, the department shall notify the applicant or license holder in writing of any deficiencies in the application that render the application incomplete.

(b) Not later than the fifth business day after the date the application is complete, the department shall notify the applicant or license holder in writing of the date that the license application or license renewal is complete.

(c) An application is automatically approved on the 30th business day after the date the application is complete, unless on or before that date the department notifies the applicant or license holder in writing of the factual grounds on which the department proposes to deny the application.

(d) The department may provide a notice required under this section by e-mail.

SECTION 5. Subchapter E, Chapter 2652, Insurance Code, is amended by adding Sections 2652.2015 and 2652.203 to read as follows:

Sec. 2652.2015. PROHIBITED GROUNDS FOR DELAY OR DENIAL. (a) Except as provided by Subsection (b) or (c), the department may not delay or deny a license application or a license renewal based wholly or partly on a department audit or complaint investigation of, or disciplinary or enforcement action against, a license holder or applicant that is pending and has not been closed or finally adjudicated on or before the date on which the initial or renewal application is filed.

(b) The department may delay a license application or license renewal if:

(1) the applicant or license holder is the subject of a criminal investigation or prosecution; or

(2) the deputy commissioner of the title division of the department makes a good faith determination that there is a credible suspicion that there are ongoing or continuing acts of fraud by the applicant or license holder.

(c) The department may deny a license application or license renewal if the department determines that the applicant or license holder intentionally made a material misstatement in the license application or license renewal or the applicant or license holder attempted to obtain the license or renewal by fraud or misrepresentation.

Sec. 2652.203. NOTICE OF DISCIPLINARY OR ENFORCEMENT ACTION; AUTOMATIC DISMISSAL. (a) The department shall notify a license holder of a disciplinary action or enforcement action against the license holder not later than the 30th business day after the date the department assigns a file number to the action, except that this subsection does not apply to a file or action:

(1) that is the subject of a pending criminal investigation or prosecution; or

(2) about which the deputy commissioner of the title division of the department makes a good faith determination that there is a credible suspicion that there are ongoing or continuing acts of fraud by a person who is the subject of the action.

(b) A notice required by Subsection (a) must provide a license holder fair notice of the alleged facts known by the department on the date of the notice that constitute grounds for the action.

(c) A disciplinary or enforcement action is automatically dismissed with prejudice, unless the department serves a notice of hearing on the license holder not later than the 60th business day after the date the department receives a hearing request from the license holder.

(d) The department may provide information about an enforcement action, including a copy of a notice issued under this section, to each title insurance agent or direct operation with which an escrow officer has, or proposes to obtain, employment.

SECTION 5. Section 2703.202, Insurance Code, is amended by amending Subsections (b) and (d) and adding Subsections (g), (h), (i), (j), (k), (l), (m), (n), and (o) to read as follows:

(b) The commissioner shall order a public hearing to consider changing a premium rate, including fixing a new premium rate, in response to a written [At the] request of:

(1) a title insurance company;

(2) an association composed of at least 50 percent of the number of title insurance agents and title insurance companies licensed or authorized by the department;

(3) an association composed of at least 20 percent of the number of title insurance agents licensed or authorized by the department; or

(4) the office of public insurance counsel[~~the commissioner shall order a public hearing to consider changing a premium rate~~].

(d) Notwithstanding Subsection (c), ~~[at the request of a title insurance company or the public insurance counsel,]~~ a public hearing held under Subsection (a) or under Section 2703.206 must be conducted by the commissioner as a contested case hearing under Subchapters C through H and Subchapter Z, Chapter 2001, Government Code, at the request of:

(1) a title insurance company;

(2) an association composed of at least 50 percent of the number of title insurance agents and title insurance companies licensed or authorized by the department;

(3) an association composed of at least 20 percent of the number of title insurance agents licensed or authorized by the department; or

(4) the office of public insurance counsel.

(g) If a hearing held under Subsection (a) is not conducted as a contested case hearing, the commissioner shall render a decision and issue a final order not later than the 120th day after the date the commissioner receives a written request under Subsection (b).

(h) If a hearing held under Subsection (a) is conducted as a contested case hearing:

(1) not later than the 30th day after the date the commissioner receives a request for a public hearing under Subsection (b), the commissioner shall issue a notice of call for items to be considered at the hearing;

(2) the commissioner may not require responses to the notice of call before the 60th day after the date the commissioner issues the notice of call;

(3) the commissioner shall issue a notice of public hearing requested under Subsection (d) not later than the 30th day after the date responses to the notice of call are required under Subdivision (2);

(4) the commissioner shall commence the public hearing not earlier than the 120th day after the date the commissioner issues a notice of hearing under Subdivision (3);

(5) the commissioner shall close the public hearing not later than the 150th day after the date the commissioner issues the notice of hearing under Subdivision (3); and

(6) the commissioner shall render a decision and issue a final order not later than the 60th day after the record made in the public hearing is closed under Subdivision (5).

(i) A party's presentation of relevant, admissible oral testimony in a hearing under this section may not be limited.

(j) The commissioner shall consider each matter presented in a hearing under this section and announce in a public hearing all decisions on all matters considered.

(k) A party described by Subsection (b) may petition a district court in Travis County to enter an order requiring the commissioner to comply with the deadlines described by this section if the commissioner fails to meet a requirement in Subsection (g) or (h).

(l) Subject to Subsection (m), if the commissioner fails to comply with the requirements under Subsection (g) or (h)(6), a combination of at least three associations, persons, or entities listed in Subsection (b) may jointly petition a district court of Travis County to adopt a rate based on the record made in the hearing before the commissioner under this section.

(m) If the record made in the hearing before the commissioner is not complete before the request for the court to adopt a premium rate under Subsection (l), the court shall hold an evidentiary hearing to establish a record before adopting the premium rate.

(n) After a petition has been filed under Subsection (l), the commissioner may not issue findings or an order related to the subject matter of the petition until after the date the court enters a final judgment.

(o) A district court may appoint a magistrate to adopt a rate under this section.

SECTION 5. __. Section 2703.203, Insurance Code, is amended to read as follows:

Sec. 2703.203. PERIODIC ~~[BIENNIAL]~~ HEARING. The commissioner shall hold a ~~[biennial]~~ public hearing not earlier than July 1 after the fifth anniversary of the closing of a hearing held under this chapter ~~[of each even numbered year]~~ to consider adoption of premium rates and other matters relating to regulating the business of title insurance that an association, title insurance company, title insurance agent, or member of the public admitted as a party under Section 2703.204 requests to be considered or that the commissioner determines necessary to consider.

SECTION 5. __. Section 2703.204, Insurance Code, is amended to read as follows:

Sec. 2703.204. ADMISSION AS PARTY TO PERIODIC ~~[BIENNIAL]~~ HEARING. (a) Subject to this section, a trade association whose membership is composed of at least 20 percent of the members of an industry or group represented by the trade association, an association, a person or entity described by Section 2703.202(b), or department staff ~~[an individual or association or other entity recommending adoption of a premium rate or another matter relating to regulating the business of title insurance]~~ shall be admitted as a party to the periodic ~~[biennial]~~ hearing under Section 2703.203.

(b) A party to any portion of the periodic ~~[the ratemaking phase of the biennial]~~ hearing relating to ratemaking may request that the commissioner remove any other party to that portion of ~~[the ratemaking phase of]~~ the hearing on the grounds that the other party does not have a substantial interest in title insurance. A decision of the commission to deny or grant the request is final and subject to appeal in accordance with Section 36.202.

SECTION 5. __. Section 2703.207, Insurance Code, is amended to read as follows:

Sec. 2703.207. NOTICE OF CERTAIN HEARINGS. Not later than the 60th day before the date of a hearing under Section 2703.202, 2703.203, or 2703.206, notice of the hearing and of each item to be considered at the hearing shall be:

(1) sent directly to all parties to the previous hearing conducted under Section 2703.202, 2703.203, or 2703.206, if the hearing was conducted as a contested case hearing [title insurance companies and title insurance agents]; and

(2) published in the Texas Register and on the department's Internet website [provided to the public in a manner that gives fair notice concerning the hearing].

SECTION 5. __. Section 2703.205, Insurance Code, is repealed.

(4) Renumber subsequent SECTIONS of ARTICLE 5 accordingly.

Amendment No. 7

Representative Orr offered the following amendment to Amendment No. 6:

Amend Amendment No. 6 by Darby to **HB 1951** (page 15, prefiled amendments packet) as follows:

(1) On page 8 of the amendment, between lines 21 and 22, insert the following appropriately numbered SECTION and renumber the subsequent SECTIONS accordingly:

SECTION 5. __. Subchapter B, Chapter 2703, Insurance Code, is amended by adding Section 2703.0515 to read as follows:

Sec. 2703.0515. CERTAIN REQUIREMENTS PROHIBITED. (a) A title insurance company is not required to offer or provide in connection with a title insurance policy an endorsement insuring a loss from damage resulting from the use of the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral if the policy includes a general exception or exclusion from coverage a loss from damage resulting from the use of the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral.

(b) In this section, "general exception or exclusion" means a provision in a title insurance policy or other title insuring form that provides that title insurance coverage under the policy or form:

(1) is subject to, and the title insurer does not insure title to, and excepts from the description of the covered property, coal, lignite, oil, gas, and other minerals in and under and that may be produced from the covered property, together with related rights, privileges, and immunities; or

(2) does not cover a lease, grant, exception, or reservation of coal, lignite, oil, gas, or other minerals, or related rights, privileges, and immunities, appearing in the public records.

(c) The premium for a policy of title insurance may not be increased directly or indirectly based on a title insurance company's voluntary issuance of an endorsement described by Subsection (a). An additional premium or other amount may not be charged directly or indirectly for the issuance of an endorsement described by Subsection (a).

(2) On page 12 of the amendment, between lines 26 and 27, insert the following appropriately numbered SECTION and renumber the subsequent SECTION accordingly:

SECTION 5.____. Section 2703.0515, Insurance Code, as added by this ARTICLE, applies only to a title insurance policy that is delivered or issued for delivery on or after January 1, 2012. A policy delivered or issued for delivery before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 7 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 8

Representative Hughes offered the following amendment to Amendment No. 6:

Amend Amendment No. 6 by Darby (page 15, prefiled amendments packet) to **HB 1951** in item (3) of the amendment, as follows:

(1) On page 8, insert the following between lines 21 and 22:

SECTION 5.____. Subchapter B, Chapter 2703, Insurance Code, is amended by adding Sections 2703.055 and 2703.056 to read as follows:

Sec. 2703.055. REQUIREMENT OF CERTAIN PROVISIONS PROHIBITED. The commissioner may not require by rule, or through adoption of a title insurance policy or other insuring form, that a title insurance policy delivered or issued for delivery in this state:

(1) insure against a loss that a person with an interest in real property sustains from damage to the property by reason of severance of minerals from the surface estate; or

(2) provide insurance as to ownership of minerals.

Sec. 2703.056. EXCEPTIONS; MINERAL INTERESTS. (a) Subject to the underwriting standards of the title insurance company, a title insurance company may in a commitment for title insurance or a title insurance policy include a general exception or a special exception to except from coverage a mineral estate or an instrument that purports to reserve or transfer all or part of a mineral estate.

(b) The inclusion in a title insurance policy of a general exception or a special exception described by Subsection (a) does not create title insurance coverage as to the condition or ownership of the mineral estate.

(2) On page 12, insert the following between lines 26 and 27:

SECTION 5.____. Sections 2703.055 and 2703.056, Insurance Code, as added by this article, apply only to a title insurance policy that is delivered or issued for delivery on or after January 1, 2012. A policy delivered or issued for delivery before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 8 was adopted.

Amendment No. 9

Representative R. Anderson offered the following amendment to Amendment No. 6:

Amend Amendment No. 6 by Darby (page 15, prefiled amendment packet) to **HB 1951** by adding the following appropriately numbered item to the amendment and renumbering subsequent items of the amendment accordingly:

() Add the following appropriately numbered SECTION to Article 5 of the bill:

SECTION 5. Chapter 2501, Insurance Code, is amended by adding Section 2501.009 to read as follows:

Sec. 2501.009. GIFTS, GRANTS, AND DONATIONS FOR EDUCATIONAL PURPOSES. (a) The department may accept gifts, grants, and donations to enable employees of the department to participate in educational events, and for other educational purposes, related to title insurance.

(b) The commissioner may adopt rules related to the acceptance of gifts, grants, and donations described in Subsection (a).

Amendment No. 9 was adopted.

Amendment No. 6, as amended, was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 10

Representative Martinez Fischer offered the following amendment to **HB 1951**:

Floor Packet Page No. 33

Please amend **HB 1951** by adding the following new section to the bill and renumbering the other sections appropriately:

SECTION ____ Chapter 31, Insurance Code, is amended by adding Section 31.0021. Notwithstanding any other provision, the department has authority relating to the organization, powers, regulation, and management of the department, any office created by the department, or the management or direction of any advisory committees created under or by the department.

Amendment No. 10 was withdrawn.

Amendment No. 11

Representative Gutierrez offered the following amendment to **HB 1951**:

Floor Packet Page No. 34

Amend **HB 1951** (house committee printing) by inserting the following appropriately numbered ARTICLE and renumbering ARTICLES of the bill accordingly:

ARTICLE ____ ELECTION OF COMMISSIONER

SECTION ____ .001. Section 31.022, Insurance Code, is amended to read as follows:

Sec. 31.022. ELECTION [~~APPOINTMENT; TERM~~]. The commissioner is elected by the qualified voters at the general election for state and county officers for a term of four years. [(a) The governor, with the advice and consent of the senate, shall appoint the commissioner. The commissioner serves a two year term that expires on February 1 of each odd-numbered year.

~~[(b) The governor shall appoint the commissioner without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.]~~

SECTION ____ .002. Section 31.024, Insurance Code, is amended to read as follows:

Sec. 31.024. INELIGIBILITY FOR PUBLIC OFFICE. The commissioner is ineligible to be a candidate for another [a] public elective office in this state, unless the commissioner has resigned and the governor has accepted the resignation.

SECTION ____ .003. Section 31.027(a), Insurance Code, is amended to read as follows:

(a) It is a ground for removal from office if the commissioner:

(1) ~~[does not have at the time of appointment the qualifications required by Section 31.023;~~

~~[(2) does not maintain during service as commissioner the qualifications required by Section 31.023;~~

~~[(3)]~~ violates a prohibition established by Section 33.001, 33.003, ~~[33.004,]~~ or 33.005; or

(2) ~~[(4)]~~ cannot, because of illness or disability, discharge the commissioner's duties for a substantial part of the commissioner's term.

SECTION ____ .004. Section 31.041(c), Insurance Code, is amended to read as follows:

(c) A person appointed as an associate or deputy commissioner or to hold an equivalent position must have at least five years of ~~[the]~~ experience in the administration of business or government or as a practicing attorney or certified public accountant ~~[required for appointment as commissioner under Section 31.023]~~. At least two years of that experience must be in work related to the position to be held.

SECTION ____ .005. Sections 33.004(a) and (b), Insurance Code, are amended to read as follows:

(a) A person who is an officer, employee, or paid consultant of a trade association in the field of insurance may not be[:

~~[(1) the commissioner; or~~

~~[(2)]~~ an employee of the department in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) ~~[who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule].~~

(b) A person who is the spouse of an officer, manager, or paid consultant of a trade association in the field of insurance may not be[:

~~[(1) the commissioner; or~~

~~[(2)]~~ an employee of the department in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) ~~[who is exempt from the~~

state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule].

SECTION ____ .006. Section 911.001(c), Insurance Code, is amended to read as follows:

(c) Except to the extent of any conflict with this chapter, the following provisions apply to a farm mutual insurance company:

- (1) Subchapter A, Chapter 32;
- (2) Subchapter D, Chapter 36;
- (3) Sections 31.002(2), 32.021(c), 32.023, 32.041, [~~33.002,~~] 38.001, 81.001-81.004, 201.005, 201.055, 401.051, 401.052, 401.054-401.062, 401.103-401.106, 401.151, 401.152, 401.155, 401.156, 421.001, 801.051-801.055, 801.057, 801.101, 801.102, 822.204, 841.004, 841.251, 841.252, 862.101, 1806.001, 1806.101, 1806.103(b), and 1806.104-1806.107;
- (4) Chapter 86;
- (5) Subchapter A, Chapter 401;
- (6) Subchapter B, Chapter 404;
- (7) Chapter 422;
- (8) Subchapter B, Chapter 424, other than Section 424.052, 424.072, or 424.073;
- (9) Chapter 441;
- (10) Chapter 443;
- (11) Chapter 462;
- (12) Chapter 481;
- (13) Chapter 541;
- (14) Chapter 802;
- (15) Subchapter A, Chapter 805;
- (16) Chapter 824; and
- (17) Article 1.09-1.

SECTION ____ .007. Section 961.002(b), Insurance Code, is amended to read as follows:

(b) The following provisions of this code apply to a nonprofit legal services corporation in the same manner that they apply to an insurer or a person engaged in the business of insurance, to the extent the provisions do not conflict with this chapter:

- (1) Articles 1.09-1 and 21.47;
- (2) Sections 31.002, 31.004, 31.007, 31.021, 31.022, [~~31.023,~~] 31.026, 31.027, 32.021, 32.022(a), 32.023, [~~33.002,~~] 33.006, 36.108, 38.001, 81.004, 201.005, 201.055, 401.051, 401.052, 401.054-401.062, 401.103-401.106, 401.151, 401.152, 401.155, 401.156, 801.001, 801.002, 801.051-801.055, 801.057, 801.101, 801.102, 841.251, and 841.252;
- (3) Subchapter B, Chapter 31;
- (4) Subchapters A and C, Chapter 32;
- (5) Subchapter D, Chapter 36;
- (6) Subchapter A, Chapter 401;
- (7) Subchapter A, Chapter 542;

(8) Subchapter A, Chapter 805; and

(9) Chapters 86, 402, 441, 443, 481, 541, 802, and 824.

SECTION ____ .008. Section 52.092(c), Election Code, is amended to read as follows:

(c) Statewide offices of the state government shall be listed in the following order:

- (1) governor;
- (2) lieutenant governor;
- (3) attorney general;
- (4) comptroller of public accounts;
- (5) commissioner of the General Land Office;
- (6) commissioner of agriculture;
- (7) commissioner of insurance;
- (8) railroad commissioner;
- (9) [~~(8)~~] chief justice, supreme court;
- (10) [~~(9)~~] justice, supreme court;
- (11) [~~(10)~~] presiding judge, court of criminal appeals;
- (12) [~~(11)~~] judge, court of criminal appeals.

SECTION ____ .009. Section 504.401(d), Transportation Code, is amended to read as follows:

(d) In this section, "state official" means:

- (1) a member of the legislature;
- (2) the governor;
- (3) the lieutenant governor;
- (4) a justice of the supreme court;
- (5) a judge of the court of criminal appeals;
- (6) the attorney general;
- (7) the commissioner of the General Land Office;
- (8) the comptroller;
- (9) a member of the Railroad Commission of Texas;
- (10) the commissioner of agriculture;
- (11) the commissioner of insurance;
- (12) the secretary of state; or
- (13) [~~(12)~~] a member of the State Board of Education.

SECTION ____ .010. Sections 31.023 and 33.002, Insurance Code, are repealed.

SECTION ____ .011. (a) The first general election for commissioner of insurance shall be held November 6, 2012, for a two-year term beginning on January 1, 2013. Thereafter, the commissioner of insurance shall be elected to serve a four-year term.

(b) Until the first commissioner of insurance elected under this Act takes office, the commissioner serving on the effective date of this Act shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the office, and that prior law is continued in effect for that purpose. If on January 1, 2013, there is a vacancy in the office of commissioner of insurance created under this Act because the first commissioner-elect has died or refuses or

is permanently unable to serve, the commissioner serving on that date shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the office until the governor fills the vacancy by appointment in the manner provided by law. The prior law that governed the office of the commissioner of insurance is continued in effect for that purpose.

SECTION ____ .012. Notwithstanding another provision of this Act, Section 31.027(a), Insurance Code, as amended by this article, and Section 504.401(d), Transportation Code, as amended by this article, take effect January 1, 2013.

Amendment No. 11 was withdrawn.

Amendment No. 12

Representative Walle offered the following amendment to **HB 1951**:
Floor Packet Page No. 69

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES of the bill appropriately:

ARTICLE ____ . DISCLOSURE OF CERTAIN INFORMATION IN CONNECTION WITH RESIDENTIAL PROPERTY AND PERSONAL AUTOMOBILE INSURANCE

SECTION ____ .001. Subchapter A, Chapter 521, Insurance Code, is amended by adding Sections 521.006 and 521.007 to read as follows:

Sec. 521.006. NOTICE TO ACCOMPANY RESIDENTIAL PROPERTY OR PERSONAL AUTOMOBILE INSURANCE RENEWAL POLICY. (a) At the time a residential property or personal automobile insurance policy is renewed, the insurer shall provide the insured a copy of the renewal policy. The policy must contain on the first page:

(1) a table that clearly lists the premium charged under the policy before renewal, the new premium charged under the renewal policy, and the percentage change, if any, between these amounts; and

(2) an explanation, in plain language, of any changes in the coverage under the renewal policy.

(b) If there is an increase in the premium or change in the coverage under the renewal policy, the first page of the renewal policy must contain a statement advising the consumer of the department's website that is designated by the department to help consumers compare premiums and coverages of different insurers' policies.

(c) The commissioner shall adopt appropriate wording for the notices.

(d) This section and Section 521.007 apply to personal automobile insurance or residential property insurance issued by an insurance company, a reciprocal or interinsurance exchange, a mutual insurance company, a capital stock company, a county mutual insurance company, a Lloyd's plan, or another legal entity authorized to write residential property insurance or personal automobile insurance in this state, including an affiliate, as described by this

code, that is authorized to write residential property insurance, the Texas Windstorm Insurance Association under Chapter 2210, and the FAIR Plan Association under Chapter 2211.

Sec. 521.007. STATEMENT OF DEDUCTIBLE ON RESIDENTIAL PROPERTY OR PERSONAL AUTOMOBILE INSURANCE DOCUMENT. An insurance policy or other document related to residential property or personal automobile insurance coverage that expresses a deductible as a percentage of the coverage amount must state the actual dollar amount of the deductible next to the percentage.

Representative L. Taylor moved to table Amendment No. 12.

The motion to table prevailed by (Record 935): 96 Yeas, 45 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Cook; Lucio; Schwertner.

Absent — Coleman; King, T.; Miles; Paxton.

Amendment No. 13

Representative Zerwas offered the following amendment to **HB 1951**:

Floor Packet Page No. 71

Amend **HB 1951** by adding the following appropriately numbered section:

SECTION ____. Chapter 524, Insurance Code, is amended by adding the following section:

Sec. 524.004. INFORMATION SHARING AGREEMENTS. The division may enter into information-sharing agreements with federal and state agencies to carry out the division's responsibilities under this chapter. An agreement entered

into under this section must include adequate protection with respect to the confidentiality of any information shared and comply with all applicable state and federal law.

SECTION _____. Section 524.015, Insurance Code, is amended to read as follows:

Sec. 524.051. **INFORMATION ABOUT SPECIFIC HEALTH BENEFIT PLAN ISSUERS.** (a) In materials produced for the program, the division may include information about specific health benefit plan issuers but may not favor or endorse one particular issuer over another.

(b) The division may:

(1) establish a procedure by which issuers of health benefit plans may submit health plans for certification by the division as qualified health plans;

(2) establish a multi-tiered rating system and assign ratings for certified health plans based upon the actuarial level of coverage offered through the plan; and

(3) provide information regarding the availability of and the cost of coverage after the application of any applicable credits.

SECTION _____. Section 524.053, Insurance Code, is amended by adding the following Subsection (d):

Sec. 524.053. (d) The division may provide on an Internet website comparative information on health plans offered for sale in the state that are certified by the division using a standardized format for presenting health benefit plan options.

SECTION _____. Chapter 524, Insurance Code, is amended by adding the following appropriately numbered section:

Sec. 524.0545a. **INFORMATION REGARDING ELIGIBILITY REQUIREMENTS.** (a) The division may make available information regarding eligibility requirements for enrollment in medical assistance programs offered by the state.

(b) The division, in coordination with the Health and Human Services Commission, may assist in the facilitation of enrollment of individuals identified as eligible for programs described under Subsection (a).

Amendment No. 14

Representative Zerwas offered the following amendment to Amendment No. 13:

Amend Amendment No. 13 (page 71 of the prefiled amendments packet) by Zerwas to **HB 1951** (house committee printing) as follows:

(1) In added Section 524.015(b)(1), Insurance Code, strike "health benefit plans may" and substitute "health benefit plans, including plans offered by regional or local health care programs under Chapter 75, Health and Safety Code, may".

(2) Immediately following added Section 524.015(b), Insurance Code, insert the following:

(c) Notwithstanding Section 75.104(d), Health and Safety Code, a regional or local health care program operating under Chapter 75, Health and Safety Code, that seeks to obtain certification from the division that a plan offered by the program is a qualified health plan is subject to regulation by the department under this code, including provisions of this code designated by the commissioner by rule as necessary for the protection of the public, in the same manner as an insurer.

Amendment No. 14 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 13, as amended, was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 15

Representative Burkett offered the following amendment to **HB 1951**:
Floor Packet Page No. 79

Amend **HB 1951** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill appropriately:

SECTION ____ Chapter 541, Insurance Code, is amended by adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. DISPUTES SUBJECT TO ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

Sec. 541.181. PRIVATE ACTION SUBJECT TO ALTERNATIVE DISPUTE RESOLUTION PROCEDURE. (a) In this subchapter:

(1) "Alternative dispute resolution procedure" means a procedure included in an insurance policy to resolve disputes arising under the policy, including arbitration, mediation, and appraisal procedures.

(2) "Residential property insurance" has the meaning assigned by Section 544.352.

(b) Before filing a private action for damages under this chapter, an insured who disputes the amount of a loss of or damage to property covered by a residential property insurance policy that includes an alternative dispute resolution procedure must:

(1) send the insurer written notice of the dispute; and

(2) comply with all applicable policy terms and conditions with respect to the dispute.

(c) The insurer shall initiate the alternative dispute resolution procedure included in the residential property insurance policy with respect to the dispute not later than:

(1) the 45th day after the date the insurer receives the notice required by Subsection (b); or

(2) an earlier date provided by the policy.

(d) If the insurer does not timely initiate an alternative dispute resolution procedure as required by Subsection (c), the insured may, to the extent otherwise authorized by this chapter, initiate a private action for damages under this chapter.

Sec. 541.182. ENFORCEMENT AND REMEDIES. (a) If a court determines that a party has initiated a private action for damages in violation of Section 541.181, the court shall:

(1) abate the action and order the parties to participate in the alternative dispute resolution procedure to the extent required by this section; and

(2) subject to this section, award to the insurer the insurer's court costs and reasonable and necessary attorney's fees for which the party who initiated the action and each attorney representing that party in the action are jointly and severally liable.

(b) An insurer may not execute, collect, or enforce an award under Subsection (a)(2) before initiating the alternative dispute resolution procedure.

(c) If an insurer does not comply with a court order under this section by initiating the alternative dispute resolution procedure before the 45th day after the date the order is entered:

(1) the insured is not required to participate in the alternative dispute resolution procedure and the action may proceed in court; and

(2) the insured and the insured's attorney are not required to pay court costs and attorney's fees awarded under Subsection (a)(2).

(d) An insurer may not recover court costs and attorney's fees awarded under Subsection (a)(2) out of money awarded to a person who prevails in an alternative dispute resolution procedure.

Sec. 541.183. NOTICE OF ALTERNATIVE DISPUTE RESOLUTION REQUIRED. On receipt of written notice from the insured of a dispute arising under the policy, an insurer shall provide an insured under a residential property insurance policy that includes an alternative dispute resolution procedure with all necessary information relating to the prerequisites for bringing a private action for damages in compliance with the policy and this subchapter.

SECTION ____. Section 542.058(b), Insurance Code, is amended to read as follows:

(b) Subsection (a) does not apply in a case in which it is found as a result of arbitration or litigation that a claim received by an insurer is invalid and should not be paid by the insurer or in a case in which an insurer and a claimant participate in an alternative dispute resolution procedure included in the relevant insurance policy.

SECTION ____. Subchapter D-1, Chapter 541, Insurance Code, as added by this Act, and Section 542.058(b), Insurance Code, as amended by this Act, apply only to a residential property insurance policy delivered, issued for delivery, or renewed on or after January 1, 2012. A residential property insurance policy delivered, issued for delivery, or renewed before January 1, 2012, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 15 was adopted by (Record 936): 99 Yeas, 42 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel;

Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Torres; Truitt; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Lozano; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Cook; Lucio; Schwertner.

Absent — Mallory Caraway; Miles; Rodriguez; Weber.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 936. I intended to vote no.

Laubenberg

I was shown voting yes on Record No. 936. I intended to vote no.

V. Taylor

Amendment No. 16

Representative Rodriguez offered the following amendment to **HB 1951**:

Floor Packet Page No. 82

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____. UNFAIR CLAIM SETTLEMENT PRACTICES

SECTION ____.001. Section 542.003, Insurance Code, is amended to read as follows:

Sec. 542.003. UNFAIR CLAIM SETTLEMENT PRACTICES PROHIBITED. (a) An insurer engaging in business in this state may not engage in an unfair claim settlement practice.

(b) Any of the following acts by an insurer constitutes unfair claim settlement practices:

(1) knowingly misrepresenting to a claimant pertinent facts or policy provisions relating to coverage at issue;

(2) failing to acknowledge with reasonable promptness pertinent communications relating to a claim arising under the insurer's policy;

(3) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under the insurer's policies;

(4) not attempting in good faith to effect a prompt, fair, and equitable settlement of a claim submitted in which liability has become reasonably clear;

(5) compelling a policyholder to institute a suit to recover an amount due under a policy by offering substantially less than the amount ultimately recovered in a suit brought by the policyholder;

(6) providing to a person compensation in any form that is based on the person's or insurer's decision to:

(A) deny or delay the resolution of a claim; or

(B) cancel or decline to renew an insurance policy;

(7) failing to maintain the information required by Section 542.005; or

(8) ~~(7)~~ committing another act the commissioner determines by rule constitutes an unfair claim settlement practice.

Representative L. Taylor moved to table Amendment No. 16.

The motion to table prevailed by (Record 937): 95 Yeas, 48 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Brown; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Jackson; Johnson; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker; Davis, S.(C); Miles.

Absent, Excused — Cook; Lucio; Schwertner.

Absent — Lyne.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hunter requested permission for the Committee on Calendars to meet while the house is in session, at 10 p.m. today, in 3W.15, to set a calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 10 p.m. today, 3W.15, for a formal meeting, to set a calendar.

HB 1951 - (consideration continued)**Amendment No. 17**

Representative Eiland offered the following amendment to **HB 1951**:

Floor Packet Page No. 84

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering existing ARTICLES of the bill accordingly:

ARTICLE __. APPRAISALS UNDER PROPERTY INSURANCE POLICIES
SECTION __.001. Subchapter B, Chapter 542, Insurance Code, is amended by adding Section 542.063 to read as follows:

Sec. 542.063. APPRAISALS. (a) A request for appraisal with respect to a claim under a property insurance policy must be made not later than the 60th day after the date the person requesting the appraisal first receives notice of a dispute as to the amount of insurance proceeds paid, estimated, or to be paid by the insurer for the claim. The failure to invoke an appraisal provision in a property insurance policy in the time required by this subsection constitutes a waiver of the provision as a matter of law.

(b) A decision resulting from the appraisal process under a property insurance policy is binding only as to the amount of loss. An appraisal may not be used to determine liability issues such as coverage, causation, extent of damage, or conditions or limits imposed by the policy. The appraisal decision does not affect any other remedy available at law.

(c) An appraisal under a property insurance policy is available only if the insurer and the insured agree, by stipulation or otherwise, on liability, coverage, causation, extent of damage, and conditions or limits imposed by the policy.

SECTION __.002. The heading to Subchapter B, Chapter 542, Insurance Code, is amended to read as follows:

SUBCHAPTER B. PROMPT PAYMENT OF CLAIMS; APPRAISALS

SECTION __.003. Section 542.063, Insurance Code, as added by this article, applies only to a dispute that arises on or after the effective date of this Act. A dispute that arises before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 17 was withdrawn.

Amendment No. 18

Representative Hancock offered the following amendment to **HB 1951**:

Floor Packet Page No. 89

Amend **HB 1951** as follows:

SECTION ____ . Section 551.107, Insurance Code, is amended by amending Subsections (b), (c), (d), and (e) and adding Subsections (d-1), (d-2), (h), and (i) to read as follows:

(b) A claim under this section does not include a claim [±

~~(1) resulting from a loss caused by natural causes;~~

~~(2) that is filed but is not paid or payable under the policy[; or~~

~~(3) that an insurer is prohibited from using under Section 544.353].~~

(c) An insurer may, ~~[assess a premium surcharge]~~ at the time an insurance policy is renewed:

~~(1) assess a premium surcharge in an [if the insured has filed two or more claims in the preceding three policy years. The] amount that is [of the surcharge must be] based on sound actuarial principles; and~~

~~(2) require an increase in any applicable deductible under the policy.~~

(d) Subject to Subsections (d-1) and (d-2) ~~[Subsection (e)]~~, an insurer may not refuse to renew an insurance policy unless ~~[if]~~ the insured has filed two ~~[three]~~ or more claims under the policy in any three-year period.

(d-1) The total number of policies an insurer refuses in a calendar year to renew under Subsection (d) may not exceed:

(1) for the entire state, two percent of the total number of standard fire, homeowners, or farm or ranch owners insurance policies written by the insurer in this state in the immediately preceding calendar year; and

(2) except as provided by Subsection (d-2), for each county, two percent of the total number of standard fire, homeowners, or farm or ranch owners insurance policies written by the insurer in the county in the immediately preceding calendar year.

(d-2) An insurer may, in each calendar year, refuse to renew one policy in each county in which the insurer writes standard fire, homeowners, or farm or ranch owners insurance policies if the two percent limit described by Subsection (d-1)(2) is an amount that is less than one.

(e) When an insured files a claim, an [An] insurer may notify the [an] insured, by electronic means or by mail, [who has filed two claims in a period of less than three years] that the insurer may refuse to renew the policy if the insured files a second [third] claim during a [the] three-year period. [If the insurer does not notify the insured in accordance with this subsection, the insurer may not refuse to renew the policy because of claims. The notice form must:

(1) list the policyholder's claims; and

(2) contain the sentence: "The filing by you of another claim, except for a claim resulting from a loss caused by natural causes, a claim filed but not paid or payable under the policy under which it was filed, or an appliance related claim that we are prohibited from using under Section 544.353, Texas Insurance Code, could cause us to refuse to renew your policy."

(h) This section may not be construed to limit an insurer's right to refuse to renew an insurance policy for reasons other than the insured's claims history.

(i) Not later than January 31 of each calendar year, an insurer shall submit a report to the department containing the total number of policies that the insurer, under this section, refused to renew in this state, and in each county of this state, in the calendar year immediately preceding the year in which the report is submitted.

SECTION _____. Section 2006.052(c), Insurance Code, is amended to read as follows:

(c) A residential property insurance claim under this section does not include a claim:

- (1) resulting from a loss caused by natural causes; or
- (2) that is filed but is not paid or payable under the policy [~~or~~
- (3) ~~that an insurer is prohibited from using under Section 544.353].~~

SECTION _____. Subchapter H, Chapter 544, Insurance Code, is repealed.

SECTION _____. The change in law made by this Act applies only to an insurance policy that is delivered, issued for delivery, renewed, or subject to nonrenewal on or after the effective date of this Act. An insurance policy that is delivered, issued for delivery, renewed, or subject to nonrenewal before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION _____. This Act takes effect September 1, 2011.

(Bonnen in the chair)

Amendment No. 18 was withdrawn.

Amendment No. 19

Representative Hancock offered the following amendment to **HB 1951**:

Floor Packet Page No. 92

Amend **HB 1951** as follows:

(1) Add the following appropriately numbered Sections:

SECTION _____. Section 551.107, Insurance Code, is amended by amending Subsections (b), (c), (d), and (e) and adding Subsections (d-1), (d-2), (h), and (i) to read as follows:

- (b) A claim under this section does not include a claim [~~;~~
- (1) ~~resulting from a loss caused by natural causes;~~
 - (2) ~~that is filed but is not paid or payable under the policy [~~or~~~~
 - (3) ~~that an insurer is prohibited from using under Section 544.353].~~

(c) An insurer may, ~~[assess a premium surcharge]~~ at the time an insurance policy is renewed:

(1) ~~assess a premium surcharge in an [if the insured has filed two or more claims in the preceding three policy years. The] amount that is [of the surcharge must be]~~ based on sound actuarial principles; and

(2) require an increase in any applicable deductible under the policy.

(d) Subject to Subsections (d-1) and (d-2) [Subsection (e)], an insurer may not refuse to renew an insurance policy unless [if] the insured has filed two [~~three~~] or more claims under the policy in any three-year period.

(d-1) The total number of policies an insurer refuses in a calendar year to renew under Subsection (d) may not exceed:

(1) for the entire state, two percent of the total number of standard fire, homeowners, or farm or ranch owners insurance policies written by the insurer in this state in the immediately preceding calendar year; and

(2) except as provided by Subsection (d-2), for each county, two percent of the total number of standard fire, homeowners, or farm or ranch owners insurance policies written by the insurer in the county in the immediately preceding calendar year.

(d-2) An insurer may, in each calendar year, refuse to renew one policy in each county in which the insurer writes standard fire, homeowners, or farm or ranch owners insurance policies if the two percent limit described by Subsection (d-1)(2) is an amount that is less than one.

(e) When an insured files a claim, an [An] insurer may notify the [an] insured, by electronic means or by mail, [who has filed two claims in a period of less than three years] that the insurer may refuse to renew the policy if the insured files a second [third] claim during a [the] three-year period. [If the insurer does not notify the insured in accordance with this subsection, the insurer may not refuse to renew the policy because of claims. The notice form must:

(1) list the policyholder's claims; and

(2) contain the sentence: "The filing by you of another claim, except for a claim resulting from a loss caused by natural causes, a claim filed but not paid or payable under the policy under which it was filed, or an appliance related claim that we are prohibited from using under Section 544.353, Texas Insurance Code, could cause us to refuse to renew your policy."

(h) This section may not be construed to limit an insurer's right to refuse to renew an insurance policy for reasons other than the insured's claims history.

(i) Not later than January 31 of each calendar year, an insurer shall submit a report to the department containing the total number of policies that the insurer, under this section, refused to renew in this state, and in each county of this state, in the calendar year immediately preceding the year in which the report is submitted.

SECTION _____. Section 2006.052(c), Insurance Code, is amended to read as follows:

(c) A residential property insurance claim under this section does not include a claim:

(1) resulting from a loss caused by natural causes; or

(2) that is filed but is not paid or payable under the policy[; or

~~(3) that an insurer is prohibited from using under Section 544.353].~~

SECTION _____. Subchapter H, Chapter 544, Insurance Code, is repealed.

Amendment No. 19 was withdrawn.

Amendment No. 20

Representative Walle offered the following amendment to **HB 1951**:

Floor Packet Page No. 95

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE _____. CREDIT SCORING

SECTION __.001. Sections 559.001(2), (4), and (7), Insurance Code, are amended to read as follows:

(2) "Agent" means a person licensed or required to be licensed as a ~~[general]~~ property and casualty insurance agent ~~[or a personal lines property and casualty agent]~~ under Subchapter B, C, D, or E, Chapter 4051.

(4) "Consumer" means an individual whose credit information has been reported to or is in the possession of a consumer reporting agency or an insurer [is used or whose credit score is computed in the underwriting or rating of a personal insurance policy]. The term includes an applicant for insurance coverage.

(7) "Credit report" means any written, oral, or other communication of information by a consumer reporting agency that[~~:~~

~~(A) bears on a consumer's creditworthiness, credit standing, or credit capacity[; and~~

~~(B) is used or expected to be used or collected in whole or in part to serve as a factor to determine personal insurance premiums, eligibility for coverage, or tier placement].~~

SECTION __.002. Section 559.002, Insurance Code, is amended to read as follows:

Sec. 559.002. APPLICABILITY OF CHAPTER. This chapter applies to each ~~[an]~~ insurer that writes personal insurance coverage ~~[and uses credit information or credit reports for the underwriting or rating of that coverage].~~

SECTION __.003. Section 559.052, Insurance Code, is amended to read as follows:

Sec. 559.052. ~~[PROHIBITED]~~ USE OF CREDIT INFORMATION PROHIBITED. (a) An insurer may not:

(1) use an underwriting guideline [a credit score] that is based wholly or partly on the credit information, credit report, or credit score of an applicant for insurance coverage or any person other than the applicant who would be insured under a policy of personal insurance [computed using factors that constitute unfair discrimination];

(2) refuse to underwrite or [deny,] cancel[;] or nonrenew a policy of personal insurance based wholly or partly [solely] on the [basis of] credit information, credit report, or credit score of an applicant for insurance coverage or any person other than the applicant who would be insured under the policy [without considering any other applicable underwriting factor independent of credit information]; [or]

(3) take an action that results in an adverse effect against a consumer because the consumer does not have a credit card account;

(4) charge an applicant for insurance coverage a higher premium than otherwise would be charged based wholly or partly on the credit information, credit report, or credit score of the applicant or any person other than the applicant who would be insured under a policy of personal insurance;

(5) rate a risk based wholly or partly on the credit information, credit report, or credit score of an applicant for insurance coverage or any person other than the applicant who would be insured under a policy of personal insurance, including:

(A) providing or removing a discount;

(B) assigning the applicant for insurance coverage to a rating tier;

or

(C) placing an applicant for insurance coverage with an affiliated company; or

(6) require a particular payment plan based wholly or partly on the credit information, credit report, or credit score of the applicant for insurance coverage or any person other than the applicant who would be insured under a policy of personal insurance [without considering any other applicable factor independent of credit information].

(b) An insurer may not consider an absence of credit information or an inability to determine credit information for an applicant for insurance coverage or for an insured as a factor in underwriting or rating an insurance policy ~~[unless the insurer:~~

~~(1) has statistical, actuarial, or reasonable underwriting information that:~~

~~(A) is reasonably related to actual or anticipated loss experience;~~

~~and~~

~~(B) shows that the absence of credit information could result in actual or anticipated loss differences;~~

~~(2) treats the consumer as if the applicant for insurance coverage or insured had neutral credit information, as defined by the insurer; or~~

~~(3) excludes the use of credit information as a factor in underwriting and uses only other underwriting criteria].~~

SECTION __.004. Section 559.055, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) This section expires September 1, 2012.

SECTION __.005. The following laws are repealed:

(1) Section 559.004(b), Insurance Code;

(2) Sections 559.003, 559.051, 559.053, 559.054, and 559.056, Insurance Code; and

(3) Subchapters C and D, Chapter 559, Insurance Code.

SECTION __.006. (a) The changes in law made by this article apply only to a personal insurance policy:

(1) that is delivered, issued for delivery, or renewed on or after January 1, 2012;

(2) the application for which is submitted on or after January 1, 2012;

or

(3) that is subject to determination of denial, cancellation, or nonrenewal on or after January 1, 2012.

(b) A personal insurance policy delivered, issued for delivery, or renewed before January 1, 2012, or the application for which is submitted before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

LEAVES OF ABSENCE GRANTED

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

L. Gonzales on motion of Otto.

The following members were granted leaves of absence temporarily for today to attend a meeting of the Committee on Calendars:

Branch on motion of C. Anderson.

Geren on motion of C. Anderson.

Hunter on motion of C. Anderson.

Keffer on motion of C. Anderson.

T. King on motion of C. Anderson.

Kolkhorst on motion of C. Anderson.

Ritter on motion of C. Anderson.

Rodriguez on motion of C. Anderson.

Truitt on motion of C. Anderson.

Zerwas on motion of C. Anderson.

The following member was granted leave of absence for the remainder of today to attend a meeting of the Committee on Calendars:

Coleman on motion of C. Anderson.

HB 1951 - (consideration continued)

Amendment No. 20 was withdrawn.

Amendment No. 21

Representative D. Howard offered the following amendment to **HB 1951**:
Floor Packet Page No. 99

Amend **HB 1951** (house committee printing) in ARTICLE 1 of the bill by adding the following appropriately numbered SECTION to the ARTICLE and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 1. ____ Section 559.003, Insurance Code, is amended to read as follows:

Sec. 559.003. INFORMATION PROVIDED TO PUBLIC. The department shall:

(1) update insurer profiles maintained on the department's Internet website to provide information to consumers stating whether or not an insurer uses credit scoring; and

(2) post on the department's Internet website:

(A) the report required under former Section 15, Article 21.49-2U;
and

(B) information as to how consumers may obtain copies of individual credit reports and claims history reports, including posting the Internet website address for each nationwide credit reporting agency [~~on the department's Internet website~~].

Amendment No. 21 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 1 - Vote Reconsidered

Representative L. Taylor moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion to reconsider prevailed.

Amendment No. 22

Representative L. Taylor offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by L. Taylor to **HB 1951** (page 1 of the prefiled amendment packet) as follows:

(1) On page 2, lines 15-17, strike "A person insured under this chapter may submit an application for renewal coverage directly to the association on forms prescribed by the association." and substitute "The association shall develop a simplified renewal process that allows for the acceptance of an application for renewal coverage, and payment of premiums, from a property and casualty agent or a person insured under this chapter."

(2) On page 2, lines 27-28, strike ", regardless of whether the agent or the applicant submits the application for coverage".

(3) Strike page 2, line 29 through the end of the amendment and substitute:
SECTION _____. Sections 2210.203(a) and (c), Insurance Code, are amended to read as follows:

(a) If the association determines that the property for which an application for initial insurance coverage is made is insurable property, the association, on payment of the premium, shall direct the issuance of an insurance policy as provided by the plan of operation.

(c) A policy may be renewed annually on application for renewal as long as the property continues to be insurable property. If the association determines that the property for which an application for renewal insurance coverage is made is insurable property, the association shall direct the issuance of a renewal insurance policy as provided by the plan of operation and may collect the premium for the policy directly from the applicant for renewal insurance coverage.

SECTION _____. Sections 2210.204(d) and (e), Insurance Code, are amended to read as follows:

(d) If an insured requests cancellation of the insurance coverage, the association shall refund the unearned premium, less any minimum retained premium set forth in the plan of operation, payable to the insured and the holder of an unpaid balance. The property and casualty agent who received a commission as the result of the issuance of an association policy providing the canceled coverage [~~submitted the application~~] shall refund the agent's commission on any unearned premium in the same manner.

(e) For cancellation of insurance coverage under this section, the minimum retained premium in the plan of operation must be for a period of not less than 90 [~~180~~] days, except for events specified in the plan of operation that reflect a significant change in the exposure or the policyholder concerning the insured property, including:

- (1) the purchase of similar coverage in the voluntary market;
- (2) sale of the property to an unrelated party;
- (3) death of the policyholder; or
- (4) total loss of the property.

SECTION _____. Section 2210.254, Insurance Code, is amended by adding Subsection (e) to read as follows:

(e) The department may establish an annual renewal period for persons appointed as qualified inspectors.

SECTION _____. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.2551 to read as follows:

Sec. 2210.2551. EXCLUSIVE ENFORCEMENT AUTHORITY; RULES.

(a) The department has exclusive authority over all matters relating to the appointment and oversight of qualified inspectors for purposes of this chapter.

(b) The commissioner by rule shall establish criteria to ensure that a person seeking appointment as a qualified inspector under this subchapter, including an engineer seeking appointment under Section 2210.255, possesses the knowledge, understanding, and professional competence to perform windstorm inspections under this chapter and to comply with other requirements of this chapter.

SECTION _____. The heading to Section 2210.256, Insurance Code, is amended to read as follows:

Sec. 2210.256. DISCIPLINARY PROCEEDINGS REGARDING APPOINTED INSPECTORS AND CERTAIN OTHER PERSONS.

SECTION _____. Section 2210.256, Insurance Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) In addition to any other action authorized under this section, the commissioner ex parte may enter an emergency cease and desist order under Chapter 83 against a qualified inspector, or a person acting as a qualified inspector, if:

(1) the commissioner believes that:

(A) the qualified inspector has:

(i) through submitting or failing to submit to the department sealed plans, designs, calculations, or other substantiating information, failed to demonstrate that a structure or a portion of a structure subject to inspection meets the requirements of this chapter and department rules; or

(ii) refused to comply with requirements imposed under this chapter or department rules; or

(B) the person acting as a qualified inspector is acting without appointment as a qualified inspector under Section 2210.254 or 2210.255; and

(2) the commissioner determines that the conduct described by Subdivision (1) is fraudulent or hazardous or creates an immediate danger to the public.

SECTION _____. Section 2210.258(b), Insurance Code, is amended to read as follows:

(b) The association may not insure a structure described by Subsection (a) until:

(1) the structure has been inspected for compliance with the plan of operation in accordance with Section 2210.251(a); and

(2) except as provided by Section 2210.260, a certificate of compliance has been issued for the structure in accordance with Section 2210.251(g).

SECTION _____. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.260 to read as follows:

Sec. 2210.260. ALTERNATIVE ELIGIBILITY FOR COVERAGE. (a) On and after January 1, 2012, a person who has an insurable interest in a residential structure may obtain insurance coverage through the association for that structure without obtaining a certificate of compliance under Section 2210.251(g) in accordance with this section and rules adopted by the commissioner.

(b) The department may issue an alternative certification for a residential structure if the person who has an insurable interest in the structure demonstrates that at least one qualifying structural building component of the structure has been:

(1) inspected by a department inspector or by a qualified inspector; and

(2) determined to be in compliance with applicable building code standards, as set forth in the plan of operation.

(c) The commissioner shall adopt reasonable and necessary rules to implement this section. The rules adopted under this section must establish which structural building components are considered qualifying structural building components for the purposes of Subsection (b), taking into consideration those items that are most probable to generate losses for the association's policyholders and the cost to upgrade those items.

(d) Except as provided in Section 2210.251(f), a person who has an insurable interest in a residential structure that is insured by the association as of January 1, 2012, but for which the person has not obtained a certificate of compliance under Section 2210.251(g), must obtain an alternative certification under this section before the association, on or after January 1, 2013, may renew coverage for the structure.

(e) Each residential structure for which a person obtains an alternative certification under this section must comply with:

(1) the requirements of this chapter, including Section 2210.258; and

(2) the association's underwriting requirements, including maintaining the structure in an insurable condition and paying premiums in the manner required by the association.

(f) The association shall develop and implement an actuarially sound rate, credit, or surcharge that reflects the risks presented by structures with reference to which alternative certifications have been obtained under this section. A rate, credit, or surcharge under this subsection may vary based on the number of qualifying structural building components included in a structure with reference to which an alternative certification is obtained under this section.

SECTION _____. This article applies only to a Texas windstorm and hail insurance policy delivered, issued for delivery, or renewed by the Texas Windstorm Insurance Association on or after the 30th day after the effective date of this Act. A Texas windstorm and hail insurance policy delivered, issued for delivery, or renewed by the Texas Windstorm Insurance Association before the 30th day after the effective date of this Act, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION _____. The Texas Windstorm Insurance Association shall, not later than January 1, 2012, amend the association's plan of operation as necessary to conform to the changes in law made by this article.

Amendment No. 22 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 1, as amended, was adopted.

Amendment No. 23

Representative Walle offered the following amendment to **HB 1951**:
Floor Packet Page No. 100

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES of the bill appropriately:

ARTICLE _____. PROVISION OF INFORMATION TO CONSUMERS REGARDING INSURER CREDIT SCORING

SECTION _____.001. Subchapter A, Chapter 559, Insurance Code, is amended by adding Section 559.0031 to read as follows:

Sec. 559.0031. INFORMATION PROVIDED TO CONSUMERS. An insurer shall provide a consumer with specific information related to improving the consumer's credit score under the insurer's credit scoring methodology not later than the 10th day after the date the insurer determines the consumer's credit score.

SECTION _____.002. Section 559.0031, Insurance Code, as added by this article, applies only to an insurer that determines a consumer's credit score on or after the effective date of this Act.

Amendment No. 24

Representative Alonzo offered the following amendment to Amendment No. 23:

Amend Amendment No. 23 by Walle (page 100, prefiled amendment packet) to **HB 1951** as follows:

(1) On page 1, line 2, strike "ARTICLE" and substitute "ARTICLES".

(2) On page 1, following line 15, add the following:

ARTICLE ____ . PROHIBITED INSURANCE DISCRIMINATION
SECTION ____ .001. Section 544.002, Insurance Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) A person may not refuse to insure or provide coverage to an individual, refuse to continue to insure or provide coverage to an individual, limit the amount, extent, or kind of coverage available for an individual, or charge an individual a rate that is different from the rate charged to other individuals for the same coverage because of the individual's:

- (1) race, color, religion, or national origin;
- (2) age, gender, marital status, or geographic location; [✗]
- (3) disability or partial disability; or
- (4) sexual orientation or gender identity or expression.

(d) In this section:

(1) "Gender identity or expression" means a person's having, or being perceived as having, a gender-related identity, appearance, expression, or behavior, whether or not that identity, appearance, expression, or behavior is different from that stereotypically associated with the person's assigned sex at birth.

(2) "Sexual orientation" means actual or perceived heterosexuality, homosexuality, or bisexuality.

Amendment No. 24 failed of adoption by (Record 938): 24 Yeas, 97 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Burnam; Davis, Y.; Deshotel; Dutton; Farias; Farrar; Gonzales, V.; Guillen; Gutierrez; Hernandez Luna; Howard, D.; Johnson; Legler; Naishtat; Quintanilla; Reynolds; Strama; Thompson; Turner; Vo; Walle.

Nays — Aliseda; Alvarado; Anderson, C.; Anderson, R.; Aycocck; Beck; Berman; Bohac; Bonnen(C); Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Gonzalez; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; Miller, D.; Miller, S.; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Parker;

Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Veasey; Villarreal; Weber; White; Woolley; Workman; Zedler.

Present, not voting — Mr. Speaker; Castro; Miles.

Absent, Excused — Cook; Gonzales, L.; Lucio; Schwertner.

Absent, Excused, Committee Meeting — Branch; Coleman; Geren; Hunter; Keffer; King, T.; Kolkhorst; Ritter; Rodriguez; Truitt; Zerwas.

Absent — Dukes; Gallego; Giddings; Hochberg; Marquez; McClendon; Menendez; Morrison; Pickett; Raymond; Torres.

STATEMENTS OF VOTE

When Record No. 938 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 938 was taken, I was excused for a committee meeting. I would have voted no.

Kolkhorst

I was shown voting yes on Record No. 938. I intended to vote no.

Legler

When Record No. 938 was taken, I was in the house but away from my desk. I would have voted no.

Marquez

When Record No. 938 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

(Branch, Geren, Hunter, Keffer, T. King, Rodriguez, Truitt, and Zerwas now present)

Representative L. Taylor moved to table Amendment No. 23.

The motion to table prevailed.

Amendment No. 25

Representative Vo offered the following amendment to **HB 1951**:

Floor Packet Page No. 101

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ CLAIMS REPORTING BY INSURERS

SECTION ____ .001. Subtitle C, Title 5, Insurance Code, is amended by adding Chapter 563 to read as follows:

CHAPTER 563. PRACTICES RELATING TO CLAIMS REPORTINGSec. 563.001. DEFINITIONS. In this chapter:

(1) "Claims database" means a database used by insurers to share, among insurers, insureds' claims histories or damage reports concerning covered properties.

(2) "Insurer," "personal automobile insurance," and "residential property insurance" have the meanings assigned by Section 2254.001.

Sec. 563.002. REPORTING TO CLAIMS DATABASE. An insurer or an insurer's agent may not report to a claims database information regarding an inquiry by an insured regarding coverage provided under a personal automobile insurance policy or a residential property insurance policy unless and until the insured files a claim under the policy.

Amendment No. 25 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 26

Representative Torres offered the following amendment to **HB 1951**:

Floor Packet Page No. 105

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE and renumbering ARTICLES of the bill accordingly:

ARTICLE ____ . PAYMENT OF CLAIMS TO PHARMACIES AND
PHARMACISTS

SECTION ____ .001. Section 843.002, Insurance Code, is amended by amending Subdivision (9-a) and adding Subdivision (9-b) to read as follows:

(9-a) "Extrapolation" means a mathematical process or technique used by a health maintenance organization or pharmacy benefit manager that administers pharmacy claims for a health maintenance organization in the audit of a pharmacy or pharmacist to estimate audit results or findings for a larger batch or group of claims not reviewed by the health maintenance organization or pharmacy benefit manager.

(9-b) "Freestanding emergency medical care facility" means a facility licensed under Chapter 254, Health and Safety Code.

SECTION ____ .002. Section 843.338, Insurance Code, is amended to read as follows:

Sec. 843.338. DEADLINE FOR ACTION ON CLEAN CLAIMS. Except as provided by Sections [~~Section~~] 843.3385 and 843.339, not later than the 45th day after the date on which a health maintenance organization receives a clean claim from a participating physician or provider in a nonelectronic format or the 30th day after the date the health maintenance organization receives a clean claim from a participating physician or provider that is electronically submitted, the health maintenance organization shall make a determination of whether the claim is payable and:

(1) if the health maintenance organization determines the entire claim is payable, pay the total amount of the claim in accordance with the contract between the physician or provider and the health maintenance organization;

(2) if the health maintenance organization determines a portion of the claim is payable, pay the portion of the claim that is not in dispute and notify the physician or provider in writing why the remaining portion of the claim will not be paid; or

(3) if the health maintenance organization determines that the claim is not payable, notify the physician or provider in writing why the claim will not be paid.

SECTION ____.003. Section 843.339, Insurance Code, is amended to read as follows:

Sec. 843.339. DEADLINE FOR ACTION ON [CERTAIN] PRESCRIPTION CLAIMS; PAYMENT. (a) A [Not later than the 21st day after the date a] health maintenance organization, or a pharmacy benefit manager that administers pharmacy claims for the health maintenance organization, that affirmatively adjudicates a pharmacy claim that is electronically submitted[~~, the health maintenance organization~~] shall pay the total amount of the claim through electronic funds transfer not later than the 18th day after the date on which the claim was affirmatively adjudicated.

(b) A health maintenance organization, or a pharmacy benefit manager that administers pharmacy claims for the health maintenance organization, that affirmatively adjudicates a pharmacy claim that is not electronically submitted shall pay the total amount of the claim not later than the 21st day after the date on which the claim was affirmatively adjudicated.

SECTION ____.004. Subchapter J, Chapter 843, Insurance Code, is amended by adding Section 843.3401 to read as follows:

Sec. 843.3401. AUDIT OF PHARMACIST OR PHARMACY. (a) A health maintenance organization or a pharmacy benefit manager that administers pharmacy claims for the health maintenance organization may not use extrapolation to complete the audit of a provider who is a pharmacist or pharmacy. A health maintenance organization may not require extrapolation audits as a condition of participation in the health maintenance organization's contract, network, or program for a provider who is a pharmacist or pharmacy.

(b) A health maintenance organization or a pharmacy benefit manager that administers pharmacy claims for the health maintenance organization that performs an on-site audit under this chapter of a provider who is a pharmacist or pharmacy shall provide the provider reasonable notice of the audit and accommodate the provider's schedule to the greatest extent possible. The notice required under this subsection must be in writing and must be sent by certified mail to the provider not later than the 15th day before the date on which the on-site audit is scheduled to occur.

SECTION ____.005. Section 843.344, Insurance Code, is amended to read as follows:

Sec. 843.344. **APPLICABILITY OF SUBCHAPTER TO ENTITIES CONTRACTING WITH HEALTH MAINTENANCE ORGANIZATION.** This subchapter applies to a person, including a pharmacy benefit manager, with whom a health maintenance organization contracts to:

- (1) process or pay claims;
- (2) obtain the services of physicians and providers to provide health care services to enrollees; or
- (3) issue verifications or preauthorizations.

SECTION ____ .006. Subchapter J, Chapter 843, Insurance Code, is amended by adding Section 843.354 to read as follows:

Sec. 843.354. **LEGISLATIVE DECLARATION.** It is the intent of the legislature that the requirements contained in this subchapter regarding payment of claims to providers who are pharmacists or pharmacies apply to all health maintenance organizations and pharmacy benefit managers unless otherwise prohibited by federal law.

SECTION ____ .007. Section 1301.001, Insurance Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Extrapolation" means a mathematical process or technique used by an insurer or pharmacy benefit manager that administers pharmacy claims for an insurer in the audit of a pharmacy or pharmacist to estimate audit results or findings for a larger batch or group of claims not reviewed by the insurer or pharmacy benefit manager.

(1-a) "Health care provider" means a practitioner, institutional provider, or other person or organization that furnishes health care services and that is licensed or otherwise authorized to practice in this state. The term includes a pharmacist and a pharmacy. The term does not include a physician.

SECTION ____ .008. Section 1301.103, Insurance Code, is amended to read as follows:

Sec. 1301.103. **DEADLINE FOR ACTION ON CLEAN CLAIMS.** Except as provided by Sections 1301.104 and [Section] 1301.1054, not later than the 45th day after the date an insurer receives a clean claim from a preferred provider in a nonelectronic format or the 30th day after the date an insurer receives a clean claim from a preferred provider that is electronically submitted, the insurer shall make a determination of whether the claim is payable and:

- (1) if the insurer determines the entire claim is payable, pay the total amount of the claim in accordance with the contract between the preferred provider and the insurer;
- (2) if the insurer determines a portion of the claim is payable, pay the portion of the claim that is not in dispute and notify the preferred provider in writing why the remaining portion of the claim will not be paid; or
- (3) if the insurer determines that the claim is not payable, notify the preferred provider in writing why the claim will not be paid.

SECTION ____ .009. Section 1301.104, Insurance Code, is amended to read as follows:

Sec. 1301.104. DEADLINE FOR ACTION ON ~~[CERTAIN]~~ PHARMACY CLAIMS; PAYMENT. (a) An ~~[Not later than the 21st day after the date on]~~ insurer, or a pharmacy benefit manager that administers pharmacy claims for the insurer under a preferred provider benefit plan, that affirmatively adjudicates a pharmacy claim that is electronically submitted~~[-the insurer]~~ shall pay the total amount of the claim through electronic funds transfer not later than the 18th day after the date on which the claim was affirmatively adjudicated.

(b) An insurer, or a pharmacy benefit manager that administers pharmacy claims for the insurer under a preferred provider benefit plan, that affirmatively adjudicates a pharmacy claim that is not electronically submitted shall pay the total amount of the claim not later than the 21st day after the date on which the claim was affirmatively adjudicated.

SECTION ____ .010. Subchapter C, Chapter 1301, Insurance Code, is amended by adding Section 1301.1041 to read as follows:

Sec. 1301.1041. AUDIT OF PHARMACIST OR PHARMACY. (a) An insurer or a pharmacy benefit manager that administers pharmacy claims for the insurer may not use extrapolation to complete the audit of a preferred provider that is a pharmacist or pharmacy. An insurer may not require extrapolation audits as a condition of participation in the insurer's contract, network, or program for a preferred provider that is a pharmacist or pharmacy.

(b) An insurer or a pharmacy benefit manager that administers pharmacy claims for the insurer that performs an on-site audit of a preferred provider who is a pharmacist or pharmacy shall provide the provider reasonable notice of the audit and accommodate the provider's schedule to the greatest extent possible. The notice required under this subsection must be in writing and must be sent by certified mail to the preferred provider not later than the 15th day before the date on which the on-site audit is scheduled to occur.

SECTION ____ .011. Section 1301.109, Insurance Code, is amended to read as follows:

Sec. 1301.109. APPLICABILITY TO ENTITIES CONTRACTING WITH INSURER. This subchapter applies to a person, including a pharmacy benefit manager, with whom an insurer contracts to:

- (1) process or pay claims;
- (2) obtain the services of physicians and health care providers to provide health care services to insureds; or
- (3) issue verifications or preauthorizations.

SECTION ____ .012. Subchapter C-1, Chapter 1301, Insurance Code, is amended by adding Section 1301.139 to read as follows:

Sec. 1301.139. LEGISLATIVE DECLARATION. It is the intent of the legislature that the requirements contained in this subchapter regarding payment of claims to preferred providers who are pharmacists or pharmacies apply to all insurers and pharmacy benefit managers unless otherwise prohibited by federal law.

SECTION ____ .013. (a) With respect to pharmacy benefits provided under a contract, the changes in law made by this article apply only to a contract entered into or renewed on or after the effective date of this Act and payment for

pharmacy benefits provided under the contract. A contract entered into before the effective date of this Act and not renewed or that was last renewed before the effective date of this Act, and payment for pharmacy benefits provided under the contract, are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) With respect to payment for pharmacy benefits not provided under a contract to which Subsection (a) of this section applies, the changes in law made by this article apply only to payment for benefits provided on or after the effective date of this Act. Payment for benefits not subject to Subsection (a) of this section and provided before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(c) Sections 843.3401 and 1301.1041, Insurance Code, as added by this article, apply to an audit of a pharmacist or pharmacy performed on or after the effective date of this Act unless the audit is performed under a contract that is entered into before the effective date of this Act and that, at the time of the audit, has not been renewed or was last renewed before the effective date of this Act.

Amendment No. 26 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 27

Representative Coleman offered the following amendment to **HB 1951**:

Floor Packet Page No. 112

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE __. SELECTION OF PRIMARY CARE PHYSICIANS AND PROVIDERS UNDER PREFERRED PROVIDER BENEFIT PLANS AND HEALTH MAINTENANCE ORGANIZATIONS

SECTION __.001. Section 843.203, Insurance Code, is amended by amending Subsection (b) and adding Subsections (d), (e), (f), (g), and (h) to read as follows:

(b) An enrollee shall at all times have the right to select or change a primary care physician or primary care provider within the health maintenance organization network of available primary care physicians and primary care providers~~], except that a health maintenance organization may limit an enrollee's request to change physicians or providers to not more than four changes in a 12-month period~~. An enrollee may designate any participating primary care physician or primary care provider who is available to accept the individual.

(d) For an enrollee who is a child, the health maintenance organization must allow the child's parent or guardian to designate as the child's primary care physician or primary care provider a participating physician who specializes in pediatrics.

(e) A health maintenance organization shall notify each enrollee of the enrollee's rights under Subsections (b) and (d).

(f) In the case of group health coverage, the notice described in Subsection (e) must be included whenever the health maintenance organization provides an enrollee with a summary plan description or other similar description of benefits under the health care plan.

(g) In the case of individual health coverage, the notice described in Subsection (e) must be included whenever the health maintenance organization plan provides an enrollee with a certificate or contract for the health care plan.

(h) A health maintenance organization may use the model language in 45 C.F.R. Section 147.138(a)(4)(iii) to satisfy the requirements of Subsections (e), (f), and (g).

SECTION __.002. Subchapter D, Chapter 1301, Insurance Code, is amended by adding Section 1301.164 to read as follows:

Sec. 1301.164. SELECTION OF PRIMARY CARE PHYSICIAN OR PROVIDER. (a) If a preferred provider benefit plan requires or provides for designation by an insured of a participating primary care physician or primary care provider, the insurer shall allow an insured to designate any participating primary care physician or primary care provider who is available to accept the individual.

(b) For an enrollee who is a child, the insurer must allow the child's parent or guardian to designate as the child's primary care physician or primary care provider a participating physician who specializes in pediatrics.

(c) An insurer shall notify each insured of the insured's rights under this section.

(d) In the case of group health insurance coverage, the notice described in Subsection (c) must be included whenever the health insurer provides a participant with a summary plan description or other similar description of benefits under the health benefit plan.

(e) In the case of individual health insurance coverage, the notice described in Subsection (c) must be included whenever the health insurer provides a primary insured with a policy, certificate or contract of health insurance.

(f) An insurer may use the model language in 45 C.F.R. Section 147.138(a)(4)(iii) to satisfy the requirements of Subsections (c), (d), and (e).

SECTION __.003. The changes in law to Section 843.203(b), Insurance Code, as amended by this Article, and Sections 843.203(d), (e), (g), and (h), and Section 1301.164, Insurance Code, as added by this Article, apply only to a health insurance policy or contract or health maintenance organization contract or agreement that is delivered or issued for delivery on or after January 1, 2012. An insurance policy or contract or health maintenance organization contract or agreement that is delivered or issued for delivery before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 27 was withdrawn.

Amendment No. 28

Representative Walle offered the following amendment to **HB 1951**:

Floor Packet Page No. 118

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 3 of the bill and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 3. Subchapter F, Chapter 843, Insurance Code, is amended by adding Section 843.2071 to read as follows:

Sec. 843.2071. NOTICE OF INCREASE IN CHARGE FOR COVERAGE.

(a) Not less than 60 days before the date on which an increase in a charge for coverage under this chapter takes effect, a health maintenance organization shall:

(1) give to each enrollee under an individual evidence of coverage written notice of the effective date of the increase; and

(2) provide the enrollee a table that clearly lists:

(A) the actual dollar amount of the charge for coverage on the date of the notice;

(B) the actual dollar amount of the charge for coverage after the charge increase; and

(C) the percentage change between the amounts described by Paragraphs (A) and (B).

(b) The notice required by this section must be based on coverage in effect on the date of the notice.

(c) This section may not be construed to prevent a health maintenance organization, at the request of an enrollee, from negotiating a change in benefits or rates after delivery of the notice required by this section.

(d) A health maintenance organization may not require an enrollee entitled to notice under this section to respond to the health maintenance organization to renew the coverage or take other action relating to the renewal or extension of the coverage before the 45th day after the date the notice described by Subsection (a) is given.

(e) The notice required by this section must include:

(1) contact information for the department, including information concerning how to file a complaint with the department;

(2) contact information for the Texas Consumer Health Assistance Program, including information concerning how to request from the program consumer protection information or assistance with filing a complaint; and

(3) the addresses of Internet websites that provide consumer information related to rate increase justifications, including the websites of the department and the United States Department of Health and Human Services.

SECTION 3. Subchapter C, Chapter 1201, Insurance Code, is amended by adding Section 1201.109 to read as follows:

Sec. 1201.109. NOTICE OF RATE INCREASE. (a) Not less than 60 days before the date on which a premium rate increase takes effect on an individual accident and health insurance policy delivered or issued for delivery in this state by an insurer, the insurer shall:

(1) give written notice to the insured of the effective date of the increase; and

(2) provide the insured a table that clearly lists:

(A) the actual dollar amount of the premium on the date of the notice;

(B) the actual dollar amount of the premium after the premium rate increase; and

(C) the percentage change between the amounts described by Paragraphs (A) and (B).

(b) The notice required by this section must be based on coverage in effect on the date of the notice.

(c) This section may not be construed to prevent an insurer, at the request of an insured, from negotiating a change in benefits or rates after delivery of the notice required by this section.

(d) An insurer may not require an insured entitled to notice under this section to respond to the insurer to renew the policy or take other action relating to the renewal or extension of the policy before the 45th day after the date the notice described by Subsection (a) is given.

(e) The notice required by this section must include:

(1) contact information for the department, including information concerning how to file a complaint with the department;

(2) contact information for the Texas Consumer Health Assistance Program, including information concerning how to request from the program consumer protection information or assistance with filing a complaint; and

(3) the addresses of Internet websites that provide consumer information related to rate increase justifications, including the websites of the department and the United States Department of Health and Human Services.

SECTION 3. Subchapter E, Chapter 1501, Insurance Code, is amended by adding Section 1501.216 to read as follows:

Sec. 1501.216. PREMIUM RATES: NOTICE OF INCREASE. (a) Not less than 60 days before the date on which a premium rate increase takes effect on a small employer health benefit plan delivered or issued for delivery in this state by an insurer, the insurer shall:

(1) give written notice to the small employer of the effective date of the increase; and

(2) provide the small employer a table that clearly lists:

(A) the actual dollar amount of the premium on the date of the notice;

(B) the actual dollar amount of the premium after the premium rate increase; and

(C) the percentage change between the amounts described by Paragraphs (A) and (B).

(b) The notice required by this section must be based on coverage in effect on the date of the notice.

(c) This section may not be construed to prevent an insurer, at the request of a small employer, from negotiating a change in benefits or rates after delivery of the notice required by this section.

(d) An insurer may not require a small employer entitled to notice under this section to respond to the insurer to renew the policy or take other action relating to the renewal or extension of the policy before the 45th day after the date the notice described by Subsection (a) is given.

(e) The notice required by this section must include:

(1) contact information for the department, including information concerning how to file a complaint with the department;

(2) contact information for the Texas Consumer Health Assistance Program, including information concerning how to request from the program consumer protection information or assistance with filing a complaint; and

(3) the addresses of Internet websites that provide consumer information related to rate increase justifications, including the websites of the department and the United States Department of Health and Human Services.

SECTION 3. Sections 843.2071, 1201.109, and 1501.216, Insurance Code, as added by this Act, apply only to a health maintenance organization individual evidence of coverage, an individual accident and health insurance policy, or a small employer health benefit plan that is delivered, issued for delivery, or renewed on or after the effective date of this Act. An evidence of coverage, policy, or plan delivered, issued for delivery, or renewed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 28 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 29

Representative Martinez Fischer offered the following amendment to **HB 1951**:

Floor Packet Page No. 133

Amend **HB 1951** as follows:

(1) Strike the following SECTIONS of ARTICLE 3

(2) Add the following appropriately numbered SECTIONS to ARTICLE 3 or the bill and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION 3. This article shall be known as the Comprehensive Assessment and Rate Evaluation (CARE) Act.

SECTION 3. Section 912.002(c), Insurance Code, as effective April 1, 2011, is amended to read as follows:

(c) Rate ~~[regulation for a residential fire and allied lines insurance policy written by a county mutual insurance company is subject to Chapter 2253. On and after December 1, 2004, rate]~~ regulation for a personal automobile insurance policy and a residential property ~~[fire and allied lines]~~ insurance policy written by a county mutual insurance company is subject to Article 5.13-2, ~~[and]~~ Chapter 2251, and Chapter 2253. A county mutual insurance company is subject to Chapter 2253. The commissioner may adopt rules as necessary to implement this subsection.

SECTION 3. _____. Section 1806.052, Insurance Code, is amended to read as follows:

Sec. 1806.052. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to prohibit the modification of rates by a rating plan that ~~complies [is filed in accordance]~~ with the requirements of Chapter 2251 or Article 5.13-2, as applicable, ~~[that has not been disapproved by the commissioner,]~~ and that is designed to encourage the prevention of accidents, and to account for all relevant factors inside and outside this state, including the peculiar hazards and experience of past and prospective individual risks.

SECTION 3. _____. Section 2251.002(7), Insurance Code, is amended to read as follows:

(7) "Supplementary rating information" means any manual, rating schedule, plan of rules, rating rules, classification systems, territory codes and descriptions, rating plans, and other similar information used by the insurer to determine the applicable premium for an insured. The term includes the number of policyholders that would be affected by the rating information change and factors and relativities, including increased limits factors, classification relativities, deductible relativities, premium discount, and other similar factors and rating plans such as experience, schedule, and retrospective rating.

SECTION 3. _____. Section 2251.003(c), Insurance Code, is amended to read as follows:

(c) Sections 2251.008, 2251.052, 2251.101, 2251.102, ~~[2251.103,]~~ 2251.104, 2251.105, and 2251.107 do not apply to a Lloyd's plan or a reciprocal or interinsurance exchange with respect to commercial property insurance, inland marine insurance, rain insurance, or hail insurance on farm crops.

SECTION 4. _____. Section 2251.101(a), Insurance Code, is amended to read as follows:

(a) For ~~[Except as provided by Subchapter D, for]~~ risks written in this state, each insurer shall file with the commissioner all rates, applicable rating manuals, supplementary rating information, and additional information as required by the commissioner.

SECTION 3. _____. The heading of Subchapter D, Chapter 2251, Insurance Code, is amended to read as follows:

SUBCHAPTER D. PRIOR APPROVAL OF CERTAIN RATES ~~[UNDER CERTAIN CIRCUMSTANCES]~~

SECTION 3. _____. Section 2251.151, Insurance Code, is amended to read as follows:

Sec. 2251.151. REQUIREMENT TO FILE CERTAIN RATES FOR PRIOR APPROVAL ~~[UNDER CERTAIN CIRCUMSTANCES]~~. (a) An insurer may not use a rate for a personal automobile insurance policy or residential property insurance policy until the rate has been filed with the department in accordance with Subchapter C and approved by the commissioner in accordance with this subchapter. This subsection does not apply to a county mutual insurance company with respect to rates for personal automobile insurance.

(b) For rates that are not subject to Subsection (a), including rates used by a county mutual insurance company for personal automobile insurance, the ~~The~~ commissioner by order may require an insurer to file with the department for the commissioner's approval all rates, supplementary rating information, and any supporting information in accordance with this subchapter if the commissioner determines that:

(1) the insurer's rates require supervision because of the insurer's financial condition or rating practices; or

(2) a statewide insurance emergency exists.

(c) ~~(a-1)~~ If an insurer subject to an order under Subsection (b) files a petition under Subchapter D, Chapter 36, for judicial review of an order disapproving a rate under this chapter, the insurer must use the rates in effect for the insurer at the time the petition is filed and may not file and use any higher rate for the same line of insurance subject to this chapter before the matter subject to judicial review is finally resolved unless the insurer, in accordance with this subchapter, files the new rate with the department, along with any applicable supplementary rating information and supporting information, and obtains the commissioner's approval of the rate.

(d) ~~(b)~~ From the date a ~~[of the filing of the]~~ rate is filed with the department under this section to the effective date of the new rate, the insurer's previously filed rate that is in effect on the date of the filing remains in effect.

(e) ~~(e)~~ The commissioner may require an insurer to file the insurer's rates under Subsection (b) ~~[this section]~~ until the commissioner determines that the conditions described by that subsection ~~[Subsection (a)]~~ no longer exist.

(f) ~~(d)~~ For purposes of this chapter ~~[section]~~, a rate is filed with the department on the date the commissioner determines that the department has received all information necessary to evaluate ~~[receives]~~ the rate ~~[filing]~~.

(g) ~~(e)~~ If the commissioner requires an insurer to file the insurer's rates under Subsection (b) ~~[this section]~~, the commissioner shall issue an order specifying the commissioner's reasons for requiring the rate filing. An affected insurer is entitled to a hearing on written request made to the commissioner not later than the 30th day after the date the order is issued.

SECTION 3. . Section 2251.152, Insurance Code, is amended to read as follows:

Sec. 2251.152. ~~[RATE APPROVAL REQUIRED;]~~ EXCEPTION TO CERTAIN RATE APPROVAL REQUIREMENTS. (a) After ~~[An insurer subject to this subchapter may not use a rate until the rate has been filed with the department and approved by the commissioner in accordance with this subchapter.~~

~~[(b) Notwithstanding Subsection (a), after]~~ a rate filing required of an insurer under Section 2251.151(b) is approved under this subchapter, the ~~[an]~~ insurer, without prior approval of the commissioner, may use any rate subsequently filed by the insurer if the subsequently filed rate does not exceed the lesser of:

(1) 107.5 percent of the rate approved by the commissioner; or

(2) 110 percent of any rate used by the insurer in the previous 12-month period.

(b) ~~(e)~~ Filed rates under Subsection (a) ~~(b)~~ take effect on the date specified by the insurer.

SECTION 3. _____. Section 2251.153, Insurance Code, is amended to read as follows:

Sec. 2251.153. COMMISSIONER ACTION. (a) Not later than the 120th ~~[30th]~~ day after the date a rate is filed with the department under this subchapter, the commissioner shall:

(1) approve the rate if the commissioner determines that the rate complies with the requirements of this chapter and any other provision of this code governing the setting of the rate by the insurer; or

(2) disapprove the rate if the commissioner determines that the rate does not comply with the requirements of this chapter or any other provision of this code governing the setting of the rate by the insurer.

(b) Except as provided by Subsection (c), if a rate has not been approved or disapproved by the commissioner before the expiration of the 120-day ~~[30-day]~~ period described by Subsection (a), the rate is considered approved and the insurer may use the rate unless the rate proposed in the filing represents an increase of 12.5 percent or more from the insurer's previously filed rate.

(c) For good cause, the commissioner may, on the expiration of the 120-day ~~[30-day]~~ period described by Subsection (a), extend the period for approval or disapproval of a rate for a [one additional] 30-day period. ~~[The commissioner and the insurer may not by agreement extend the 30-day period described by Subsection (a).]~~

SECTION 3. _____. Section 2251.156, Insurance Code, is amended to read as follows:

Sec. 2251.156. RATE FILING DISAPPROVAL BY COMMISSIONER; HEARING. (a) The commissioner shall disapprove a rate filing if the commissioner determines that the rate filing made under this chapter does not meet the standards under Subchapter B.

(b) If the commissioner disapproves a rate filing under this chapter ~~[Section 2251.153(a)(2)]~~, the commissioner shall issue an order specifying in what respects the filing fails to meet the requirements of this chapter or another provision of this code applicable to the setting of the rate by the insurer ~~[disapproving the filing in accordance with Section 2251.103(b)].~~

(c) ~~(b)~~ An insurer whose rate filing is disapproved is entitled to a hearing on written request made to the commissioner not later than the 30th day after the date the order disapproving the rate filing takes effect ~~[in accordance with Section 2251.103(e)].~~

SECTION 3. _____. Section 2251.104, Insurance Code, is transferred to Subchapter D, Chapter 2251, Insurance Code, and redesignated as Section 2251.157 to read as follows:

Sec. 2251.157 [~~2251.104~~]. DISAPPROVAL OF RATE IN EFFECT; HEARING. (a) The commissioner may disapprove a rate that is in effect only after a hearing. The commissioner shall provide the filer at least 20 days' written notice.

(b) The commissioner must issue an order disapproving a rate under Subsection (a) not later than the 15th day after the close of the hearing. The order must:

(1) specify in what respects the rate fails to meet the requirements of this chapter; and

(2) state the date on which further use of the rate is prohibited, which may not be earlier than the 45th day after the close of the hearing under this section.

SECTION 3. _____. Section 2251.155, Insurance Code, is repealed.

SECTION 3. _____. The commissioner of insurance shall adopt all rules necessary to implement this article on or before December 1, 2011.

SECTION 3. _____. The change in law made by this article applies to insurance policies delivered, issued for delivery, or renewed on or after January 1, 2012, and to rates for those policies. An insurance policy delivered, issued for delivery, or renewed before January 1, 2012, and rates for the policy are governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 29 was withdrawn.

Amendment No. 30

Representative Eiland offered the following amendment to **HB 1951**:

Floor Packet Page No. 140

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE _____. PAYMENT OF BENEFITS

SECTION _____.001. Chapter 1102, Insurance Code, is amended to read as follows:

CHAPTER 1102. PAYMENT OF INSURANCE BENEFITS [~~IN CURRENCY~~] SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1102.001. DEFINITIONS. In this chapter:

- (1) "Insurance policy" means a policy, certificate, or contract of:
 - (A) life, term, or endowment insurance, including an annuity or pure endowment contract;
 - (B) group life or term insurance, including a group annuity contract;
 - (C) industrial life insurance;
 - (D) accident or health insurance;
 - (E) group accident or health insurance;
 - (F) hospitalization insurance;
 - (G) group hospitalization insurance;

- (H) medical or surgical insurance;
 - (I) group medical or surgical insurance; or
 - (J) fraternal benefit insurance.
- (2) "Insurer" means any insurer, including a:
- (A) life, accident, health, or casualty insurance company;
 - (B) mutual life insurance company;
 - (C) mutual insurance company other than a life insurance company;
 - (D) mutual or natural premium life insurance company;
 - (E) general casualty company;
 - (F) Lloyd's plan or a reciprocal or interinsurance exchange;
 - (G) fraternal benefit society; or
 - (H) group hospital service corporation.
- (3) "Life insurance policy" means a policy, certificate, or contract of:
- (A) life, term, or endowment insurance, including an annuity or pure endowment contract;
 - (B) group life or term insurance, including a group annuity contract;
 - (C) industrial life insurance; or
 - (D) fraternal benefit insurance, other than insurance for:
 - (i) benefits for hospital, medical, or nursing expenses resulting from sickness, bodily infirmity, or accident; or
 - (ii) other accident or health insurance.
- (4) "Retained asset account" means a mechanism by which an insurer or the insurer's agent deposits proceeds payable under a life insurance policy, including the payment of cash surrender value, into an account the deposits of which are retained by the insurer under a supplementary contract not involving annuity benefits.

Sec. 1102.002. RULES. The commissioner may adopt reasonable rules to accomplish the purposes of this chapter, including rules requiring:

- (1) appropriate reserves for insurance policies subject to this chapter; or
- (2) prudent investment of premiums collected from insurance policies subject to this chapter regardless of any other provision of this code related to the investment of money by an insurance company.

SUBCHAPTER B. PAYMENT OF BENEFITS IN CURRENCY

Sec. 1102.051 [1102.002]. BENEFITS PAYABLE IN CURRENCY. Each benefit payable under an insurance policy delivered, issued, or used in this state by an insurer shall be payable in currency.

Sec. 1102.052 [1102.003]. STATEMENT REGARDING VALUE OF FOREIGN CURRENCY. (a) An insurance policy described by Section 1102.051 [1102.002] providing that benefits are payable in foreign currency must include a conspicuous statement that the value of the currency denominated in the policy can fluctuate as compared to the value of United States currency.

(b) The statement must be:

- (1) included as part of the policy; or
- (2) attached to the insurance policy at the time it is issued.

Sec. 1102.053 [~~1102.004~~]. PREVIOUSLY APPROVED INSURANCE POLICY FORM PAYABLE IN FOREIGN CURRENCY. (a) The commissioner may disapprove or withdraw approval of a previously approved insurance policy form that provides benefits payable in foreign currency if the commissioner determines that the foreign currency has been less stable than United States currency in the previous 20-year period.

(b) This section does not require the resubmission for approval of any previously approved insurance policy form unless:

(1) withdrawal of approval is authorized under this section or Chapter 1701; or

(2) after notice and hearing, the commissioner determines that approval was obtained by improper means, including by misrepresentation, fraud, or a misleading statement or document[;

~~[Sec. 1102.005. RULES. The commissioner may adopt reasonable rules to accomplish the purposes of this chapter, including rules requiring:~~

~~(1) appropriate reserves for insurance policies subject to this chapter; or~~

~~(2) prudent investment of premiums collected from insurance policies subject to this chapter regardless of any other provision of this code related to the investment of money by an insurance company].~~

SUBCHAPTER C. RETAINED ASSET ACCOUNTS

Sec. 1102.101. RETAINED ASSET ACCOUNT ELECTION. (a) An insurer may not transfer proceeds payable under a life insurance policy to a retained asset account unless the insurer obtains the written acknowledgment of the disclosure of the option before the death benefit is transferred to a retained asset account from:

(1) the beneficiary or the beneficiary's legal representative; or

(2) in the case of a group contract, the contract holder or policy owner.

(b) A beneficiary shall be informed of the right to receive a lump-sum payment of life insurance proceeds by a bank check or other form of immediate full payment.

(c) An insurer that offers multiple modes of settlement to a beneficiary may not use a retained asset account as the default mode of settlement unless the offer conspicuously discloses that the retained asset account is the default mode.

Sec. 1102.102. DISCLOSURE REQUIREMENTS. (a) The claim form for payment of proceeds under a life insurance policy must include a statement, written in plain language and in boldfaced type, disclosing benefit payment options available under the policy, including payment through the use of a retained asset account or by check directly to the claimant.

(b) An insurer may not transfer proceeds payable under a life insurance policy to a retained asset account unless the insurer, before transferring the proceeds and in a written document signed by the claimant, discloses to the claimant, or advises the claimant concerning, the following information:

(1) a recommendation to consult a tax, investment, or other financial advisor about tax liability and investment options;

(2) the initial interest rate, when and how the interest rate may change, and any dividends and other gains that may be paid or distributed to the account holder;

(3) the name and address of the custodian of the retained asset account;

(4) any coverage of the retained asset account guaranteed by the Federal Deposit Insurance Corporation and the amount of the coverage;

(5) any limitations on withdrawal of funds from the retained asset account, including any minimum or maximum benefit payment amounts;

(6) the delay, if any, that the account holder may encounter in completing an authorized transaction and the anticipated duration of the delay;

(7) any fees for services provided, including a list of the fees and the method of the fee calculation;

(8) the nature and frequency with which statements concerning the retained asset account are issued, which must be not less than once annually;

(9) that some or all of the benefit may be paid by a bank check or other form of immediate payment;

(10) that the entire proceeds are available to the retained asset account holder by a bank check or other form of immediate full payment as described by Section 1102.101(b);

(11) whether the insurer or a related party may earn income from the retained asset account, in addition to any fees charged on the account, from the total gains received on the investment of the balance of funds in the account;

(12) the telephone number, address, and other contact information, including website address, to obtain additional information regarding the retained asset account;

(13) a description of the insurer's policy regarding retained asset accounts that may become inactive; and

(14) any other information prescribed by the commissioner by rule.

SECTION __.002. Chapter 1102, Insurance Code, as amended by this article, applies only to a claim made under a life insurance policy on or after September 1, 2011. A claim made before September 1, 2011, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 31

Representative Eiland offered the following amendment to Amendment No. 30:

Amend Eiland Amendment No. 30 (page 140, prefiled amendments packet) to **HB 1951** (house committee printing) as follows:

(1) Strike page 2, lines 21-26 and substitute the following:

(4) "Retained asset account" means any mechanism whereby the settlement of proceeds payable under a life insurance policy, including but not limited to the payment of cash surrender value, is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account, where those proceeds are retained by the insurer, pursuant to a supplementary contract not involving annuity benefits.

(2) On page 4, strike lines 12-27 and substitute the following:

Sec. 1102.101. RETAINED ASSET ACCOUNT ELECTION. (a) An insurer may not transfer proceeds payable under a life insurance policy to a retained asset account unless the insurer discloses such option to the beneficiary or the beneficiary's legal representative, or in the case of a group contract, the contract holder or policy owner before transferring the proceeds to the account.

(b) A beneficiary shall be informed of the beneficiary's rights to receive a lump-sum payment of life insurance proceeds in the form of a bank check or other form of immediate full payment of benefits.

(c) When an insurer offers multiple modes of settlement to a beneficiary, the insurer may not use a retained asset account as the default mode of settlement unless the insurer conspicuously discloses that fact.

(3) On page 4, lines 30-31, strike "and in boldfaced type".

(4) On page 5, line 6, strike "signed by the claimant".

(5) On page 5, strike lines 10-12 and substitute the following:

(2) when and how interest rates may change, and any dividends and other gains that may be paid or distributed to the account holder;

(6) On page 5, strike lines 21-23 and substitute the following:

(6) the anticipated duration of any delays that the retained asset account holder might encounter in completing an authorized transaction;

(7) On page 5, line 29, strike "by a".

(8) On page 5, strike line 30 and substitute the following: through check, draft, or other instrument;

(9) On page 6, strike lines 1-2 and substitute the following: retained asset account holder by the use of a single check, draft, or other instrument;

Amendment No. 31 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 30, as amended, was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 32

Representative Christian offered the following amendment to **HB 1951**:
Floor Packet Page No. 158

Amend **HB 1951** by adding new appropriately numbered sections to read as follows:

SECTION ____ . Section 1451.153, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A managed care plan may not:

(1) discriminate against a health care practitioner because the practitioner is an optometrist, therapeutic optometrist, or ophthalmologist;

(2) restrict or discourage a plan participant from obtaining covered vision or medical eye care services or procedures from a participating optometrist, therapeutic optometrist, or ophthalmologist solely because the practitioner is an optometrist, therapeutic optometrist, or ophthalmologist;

(3) exclude an optometrist, therapeutic optometrist, or ophthalmologist as a participating practitioner in the plan because the optometrist, therapeutic optometrist, or ophthalmologist does not have medical staff privileges at a hospital or at a particular hospital; [✗]

(4) exclude an optometrist, therapeutic optometrist, or ophthalmologist as a participating practitioner in the plan because the services or procedures provided by the optometrist, therapeutic optometrist, or ophthalmologist may be provided by another type of health care practitioner; or

(5) as a condition for a therapeutic optometrist or ophthalmologist to be included in one or more of the plan's medical panels, require the therapeutic optometrist or ophthalmologist to be included in, or to accept the terms of payment under or for, a particular vision panel in which the therapeutic optometrist or ophthalmologist does not otherwise wish to be included.

(c) For the purposes of Subsection (a)(5), "medical panel" and "vision panel" have the meanings assigned by Section 1451.154(a).

SECTION _____. The change in law made by Section _____ of this Act applies only to a contract entered into or renewed by a therapeutic optometrist or ophthalmologist and an issuer of a managed care plan on or after January 1, 2012. A contract entered into or renewed before January 1, 2012 is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 32 was withdrawn.

Amendment No. 33

Representative Smithee offered the following amendment to **HB 1951**:

Floor Packet Page No. 160

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 1451.153, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A managed care plan may not:

(1) discriminate against a health care practitioner because the practitioner is an optometrist, therapeutic optometrist, or ophthalmologist;

(2) restrict or discourage a plan participant from obtaining covered vision or medical eye care services or procedures from a participating optometrist, therapeutic optometrist, or ophthalmologist solely because the practitioner is an optometrist, therapeutic optometrist, or ophthalmologist;

(3) exclude an optometrist, therapeutic optometrist, or ophthalmologist as a participating practitioner in the plan because the optometrist, therapeutic optometrist, or ophthalmologist does not have medical staff privileges at a hospital or at a particular hospital; [✗]

(4) exclude an optometrist, therapeutic optometrist, or ophthalmologist as a participating practitioner in the plan because the services or procedures provided by the optometrist, therapeutic optometrist, or ophthalmologist may be provided by another type of health care practitioner; or

(5) as a condition for a therapeutic optometrist or ophthalmologist to be included in one or more of the plan's medical panels, require the therapeutic optometrist or ophthalmologist to be included in, or to accept the terms of payment under or for, a particular vision panel in which the therapeutic optometrist or ophthalmologist does not otherwise wish to be included.

(c) For purposes of Subsection (a)(5), "medical panel" and "vision panel" have the meanings assigned by Section 1451.154(a).

SECTION _____. The change in law made by Section _____ of this Act applies only to a contract entered into or renewed by a therapeutic optometrist or ophthalmologist and an issuer of a managed care plan on or after January 1, 2012. A contract entered into or renewed before January 1, 2012 is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 33 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 34

Representative Eiland offered the following amendment to **HB 1951**:

Floor Packet Page No. 162

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE _____. PROVIDER NETWORK CONTRACT ARRANGEMENTS

SECTION _____.001. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1458 to read as follows:

CHAPTER 1458. PROVIDER NETWORK CONTRACT ARRANGEMENTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1458.001. GENERAL DEFINITIONS. In this chapter:

(1) "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(2) "Contracting entity" means a person that:

(A) enters into a direct contract with a provider for the delivery of health care services; and

(B) in the ordinary course of business establishes a provider network for access by another party.

(3) "Covered individual" means an individual who is covered under a health benefit plan.

(4) "Direct notification" means a written or electronic communication from a contracting entity to a physician or other health care provider documenting third party access to a provider network.

(5) "Health care services" means services provided for the diagnosis, prevention, treatment, or cure of a health condition, illness, injury, or disease.

(6) "Person" has the meaning assigned by Section 823.002.

(7) "Provider" means a physician, a professional association composed solely of physicians, a single legal entity authorized to practice medicine owned by two or more physicians, a nonprofit health corporation certified by the Texas Medical Board under Chapter 162, Occupations Code, a partnership composed solely of physicians, a physician-hospital organization that acts exclusively as an administrator for a provider to facilitate the provider's participation in health care contracts, or an institution licensed under Chapter 241, Health and Safety Code. The term does not include a physician-hospital organization that leases or rents the physician-hospital organization's network to a third party.

(8) "Provider network contract" means a contract between a contracting entity and a provider for the delivery of, and payment for, health care services to a covered individual.

(9) "Third party" means a person that contracts with a contracting entity or another party to gain access to a provider network contract.

Sec. 1458.002. DEFINITION OF HEALTH BENEFIT PLAN. (a) In this chapter, "health benefit plan" means:

(1) a hospital and medical expense incurred policy;

(2) a nonprofit health care service plan contract;

(3) a health maintenance organization subscriber contract; or

(4) any other health care plan or arrangement that pays for or furnishes medical or health care services.

(b) "Health benefit plan" does not include one or more or any combination of the following:

(1) coverage only for accident or disability income insurance or any combination of those coverages;

(2) credit-only insurance;

(3) coverage issued as a supplement to liability insurance;

(4) liability insurance, including general liability insurance and automobile liability insurance;

(5) workers' compensation or similar insurance;

(6) a discount health care program, as defined by Section 7001.001;

(7) coverage for on-site medical clinics;

(8) automobile medical payment insurance; or

(9) other similar insurance coverage, as specified by federal regulations issued under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191), under which benefits for medical care are secondary or incidental to other insurance benefits.

(c) "Health benefit plan" does not include the following benefits if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of the coverage:

(1) dental or vision benefits;

(2) benefits for long-term care, nursing home care, home health care, community-based care, or any combination of these benefits;

(3) other similar, limited benefits, including benefits specified by federal regulations issued under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191); or

(4) a Medicare supplement benefit plan described by Section 1652.002.

(d) "Health benefit plan" does not include coverage limited to a specified disease or illness or hospital indemnity coverage or other fixed indemnity insurance coverage if:

(1) the coverage is provided under a separate policy, certificate, or contract of insurance;

(2) there is no coordination between the provision of the coverage and any exclusion of benefits under any group health benefit plan maintained by the same plan sponsor; and

(3) the coverage is paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health benefit plan maintained by the same plan sponsor.

Sec. 1458.003. EXEMPTIONS. This chapter does not apply:

(1) to a provider network contract for services provided to a beneficiary under the Medicaid program, the Medicare program, or the state child health plan established under Chapter 62, Health and Safety Code, or the comparable plan under Chapter 63, Health and Safety Code;

(2) under circumstances in which access to the provider network is granted to an entity that operates under the same brand licensee program as the contracting entity; or

(3) to a contract between a contracting entity and a discount health care program operator, as defined by Section 7001.001.

[Sections 1458.004-1458.050 reserved for expansion]

SUBCHAPTER B. REGISTRATION REQUIREMENTS

Sec. 1458.051. REGISTRATION REQUIRED. (a) Unless the person holds a certificate of authority issued by the department to engage in the business of insurance in this state or operate a health maintenance organization under Chapter 843, a person must register with the department not later than the 30th day after the date on which the person begins acting as a contracting entity in this state.

(b) Notwithstanding Subsection (a), under Section 1458.055 a contracting entity that holds a certificate of authority issued by the department to engage in the business of insurance in this state or is a health maintenance organization shall file with the commissioner an application for exemption from registration under which the affiliates may access the contracting entity's network.

(c) An application for an exemption filed under Subsection (b) must be accompanied by a list of the contracting entity's affiliates. The contracting entity shall update the list with the commissioner on an annual basis.

(d) A list of affiliates filed with the commissioner under Subsection (c) is public information and is not exempt from disclosure under Chapter 552, Government Code.

Sec. 1458.052. DISCLOSURE OF INFORMATION. (a) A person required to register under Section 1458.051 must disclose:

(1) all names used by the contracting entity, including any name under which the contracting entity intends to engage or has engaged in business in this state;

(2) the mailing address and main telephone number of the contracting entity's headquarters;

(3) the name and telephone number of the contracting entity's primary contact for the department; and

(4) any other information required by the commissioner by rule.

(b) The disclosure made under Subsection (a) must include a description or a copy of the applicant's basic organizational structure documents and a copy of organizational charts and lists that show:

(1) the relationships between the contracting entity and any affiliates of the contracting entity, including subsidiary networks or other networks; and

(2) the internal organizational structure of the contracting entity's management.

Sec. 1458.053. SUBMISSION OF INFORMATION. Information required under this subchapter must be submitted in a written or electronic format adopted by the commissioner by rule.

Sec. 1458.054. FEES. The department may collect a reasonable fee set by the commissioner as necessary to administer the registration process. Fees collected under this chapter shall be deposited in the Texas Department of Insurance operating fund.

Sec. 1458.055. EXEMPTION FOR AFFILIATES. (a) The commissioner shall grant an exemption for affiliates of a contracting entity if the contracting entity holds a certificate of authority issued by the department to engage in the business of insurance in this state or is a health maintenance organization if the commissioner determines that:

(1) the affiliate is not subject to a disclaimer of affiliation under Chapter 823; and

(2) the relationships between the person who holds a certificate of authority and all affiliates of the person, including subsidiary networks or other networks, are disclosed and clearly defined.

(b) An exemption granted under this section applies only to registration. An entity granted an exemption is otherwise subject to this chapter.

(c) The commissioner shall establish a reasonable fee as necessary to administer the exemption process.

[Sections 1458.056-1458.100 reserved for expansion]

SUBCHAPTER C. RIGHTS AND RESPONSIBILITIES OF A
CONTRACTING ENTITY

Sec. 1458.101. CONTRACT REQUIREMENTS. A contracting entity may not provide a person access to health care services or contractual discounts under a provider network contract unless the provider network contract specifically states that:

(1) the contracting entity may contract with a third party to provide access to the contracting entity's rights and responsibilities under a provider network contract; and

(2) the third party must comply with all applicable terms, limitations, and conditions of the provider network contract.

Sec. 1458.102. DUTIES OF CONTRACTING ENTITY. (a) A contracting entity that has granted access to health care services and contractual discounts under a provider network contract shall:

(1) notify each provider of the identity of, and contact information for, each third party, other than a payor who is not an insurer or a health maintenance organization, that has or may obtain access to the provider's health care services and contractual discounts;

(2) provide each third party with sufficient information regarding the provider network contract to enable the third party to comply with all relevant terms, limitations, and conditions of the provider network contract;

(3) require each third party to disclose the identity of the contracting entity and the existence of a provider network contract on each remittance advice or explanation of payment form; and

(4) notify each third party of the termination of the provider network contract not later than the 30th day after the effective date of the contract termination.

(b) If a contracting entity knows that a third party is making claims under a terminated contract, the contracting entity must take reasonable steps to cause the third party to cease making claims under the provider network contract. If the steps taken by the contracting entity are unsuccessful and the third party continues to make claims under the terminated provider network contract, the contracting entity must:

(1) terminate the contracting entity's contract with the third party; or

(2) notify the commissioner, if termination of the contract is not feasible.

(c) Any notice provided by a contracting entity to a third party under Subsection (b) must include a statement regarding the third party's potential liability under this chapter for using a provider's contractual discount for services provided after the termination date of the provider network contract.

(d) The notice required under Subsection (a)(1):

(1) must be provided by:

(A) providing for a subscription to receive the notice by e-mail; or

(B) posting the information on an Internet website at least once each calendar quarter; and

(2) must include a separate prominent section that lists:

(A) each third party that the contracting entity knows will have access to a discounted fee of the provider in the succeeding calendar quarter; and

(B) the effective date and termination or renewal dates, if any, of the third party's contract to access the network.

(e) The e-mail notice described by Subsection (d) may contain a link to an Internet web page that contains a list of third parties that complies with this section.

Sec. 1458.103. EFFECT OF CONTRACT TERMINATION. Subject to continuity of care requirements, agreements, or contractual provisions:

(1) a third party may not access health care services and contractual discounts after the date the provider network contract terminates;

(2) claims for health care services performed after the termination date may not be processed or paid under the provider network contract after the termination; and

(3) claims for health care services performed before the termination date and processed after the termination date may be processed and paid under the provider network contract after the date of termination.

Sec. 1458.104. AVAILABILITY OF CODING GUIDELINES. (a) A contract between a contracting entity and a provider must provide that:

(1) the provider may request a description and copy of the coding guidelines, including any underlying bundling, recoding, or other payment process and fee schedules applicable to specific procedures that the provider will receive under the contract;

(2) the contracting entity or the contracting entity's agent will provide the coding guidelines and fee schedules not later than the 30th day after the date the contracting entity receives the request;

(3) the contracting entity or the contracting entity's agent will provide notice of changes to the coding guidelines and fee schedules that will result in a change of payment to the provider not later than the 90th day before the date the changes take effect and will not make retroactive revisions to the coding guidelines and fee schedules; and

(4) if the requested information indicates a reduction in payment to the provider from the amounts agreed to on the effective date of the contract, the contract may be terminated by the provider on written notice to the contracting entity on or before the 30th day after the date the provider receives information requested under this subsection without penalty or discrimination in participation in other health care products or plans.

(b) A provider who receives information under Subsection (a) may only:

(1) use or disclose the information for the purpose of practice management, billing activities, and other business operations; and

(2) disclose the information to a governmental agency involved in the regulation of health care or insurance.

(c) The contracting entity shall, on request of the provider, provide the name, edition, and model version of the software that the contracting entity uses to determine bundling and unbundling of claims.

(d) The provisions of this section may not be waived, voided, or nullified by contract.

(e) If a contracting entity is unable to provide the information described by Subsection (a)(1), (a)(3), or (c), the contracting entity shall by telephone provide a readily available medium in which providers may obtain the information, which may include an Internet website.

[Sections 1458.105-1458.150 reserved for expansion]

SUBCHAPTER D. RIGHTS AND RESPONSIBILITIES OF THIRD PARTY

Sec. 1458.151. THIRD-PARTY RIGHTS AND RESPONSIBILITIES. (a)

A third party that leases, sells, aggregates, assigns, or otherwise conveys a provider's contractual discount to another party who is not a covered individual must comply with the responsibilities of a contracting entity under Subchapters C and E.

(b) A third party that obtains access to a provider's health care services and contractual discounts from a third party acting as a contracting entity must comply with this subchapter.

Sec. 1458.152. DISCLOSURE BY THIRD PARTY. (a) A third party shall disclose, to the contracting entity and providers under the provider network contract, the identity of a person other than a covered individual to whom the third party leases, sells, aggregates, assigns, or otherwise conveys a provider's contractual discounts through an electronic notification that complies with Section 1458.102 and includes a link to the Internet website described by Section 1458.102(d).

(b) A third party that uses an Internet website under this section must update the website on a quarterly basis. On request, a contracting entity shall disclose the information by telephone or through direct notification.

[Sections 1458.153-1458.200 reserved for expansion]

SUBCHAPTER E. UNAUTHORIZED ACCESS TO PROVIDER NETWORK CONTRACTS

Sec. 1458.201. UNAUTHORIZED ACCESS TO OR USE OF DISCOUNT. (a) A person who knowingly accesses or uses a provider's contractual discount under a provider network contract without a contractual relationship established under this chapter commits an unfair or deceptive act in the business of insurance that violates Subchapter B, Chapter 541. The remedies available for a violation of Subchapter B, Chapter 541, under this subsection do not include a private cause of action under Subchapter D, Chapter 541, or a class action under Subchapter F, Chapter 541.

(b) A contracting entity or third party must comply with the disclosure requirements under Sections 1458.102 and 1458.152 concerning the services listed on a remittance advice or explanation of payment. A provider may refuse a discount taken without a contract under this chapter or in violation of those sections.

(c) Notwithstanding Subsection (b), an error in the remittance advice or explanation of payment may be corrected by a contracting entity or third party not later than the 30th day after the date the provider notifies in writing the contracting entity or third party of the error.

Sec. 1458.202. ACCESS TO THIRD PARTY. A contracting entity may not provide a third party access to a provider network contract unless the third party is:

(1) a payor or person who administers or processes claims on behalf of the payor;

(2) a preferred provider benefit plan issuer or preferred provider network, including a physician-hospital organization; or

(3) a person who transports claims electronically between the contracting entity and the payor and does not provide access to the provider's services and discounts to any other third party.

[Sections 1458.203-1458.250 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT

Sec. 1458.251. UNFAIR CLAIM SETTLEMENT PRACTICE. (a) A contracting entity that violates this chapter commits an unfair claim settlement practice under Subchapter A, Chapter 542, and is subject to sanctions under that subchapter as if the contracting entity were an insurer.

(b) A provider who is adversely affected by a violation of this chapter may make a complaint under Subchapter A, Chapter 542.

Sec. 1458.252. REMEDIES NOT EXCLUSIVE. The remedies provided by this subchapter are in addition to any other defense, remedy, or procedure provided by law, including common law.

SECTION ____.002. The change in law made by this article applies only to a provider network contract entered into or renewed on or after January 1, 2012. A provider network contract entered into or renewed before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 34 was adopted. (Laubenberg, Perry, and V. Taylor recorded voting no.)

Amendment No. 35

Representative Smithee offered the following amendment to **HB 1951**:

Floor Packet Page No. 175

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE and renumbering ARTICLES and SECTIONS of the bill appropriately:

ARTICLE ____ . PAYMENT FOR CERTAIN SERVICES BY MANAGED CARE PLAN

SECTION ____.001. Subchapter A, Chapter 1467, Insurance Code, is amended by adding Section 1467.0021 to read as follows:

Sec. 1467.0021. CERTAIN CLAIMS EXCLUDED. This chapter does not apply to a claim with respect to services to which Chapter 1468 applies.

SECTION ____.002. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1468 to read as follows:

CHAPTER 1468. PAYMENT OF CERTAIN SERVICES PROVIDED TO INDIVIDUAL COVERED BY MANAGED CARE PLAN

Sec. 1468.001. DEFINITIONS. In this chapter:

(1) "Facility-based physician" means a radiologist, an anesthesiologist, a pathologist, an emergency department physician, or a neonatologist:

(A) to whom the facility has granted clinical privileges; and

(B) who provides services to patients of the facility under those clinical privileges.

(2) "Managed care plan" means a plan under which a health maintenance organization, preferred provider benefit plan issuer, or other organization provides or arranges for health care benefits to plan enrollees and requires or encourages plan enrollees to use health care practitioners and health care facilities designated by the plan.

Sec. 1468.002. APPLICABILITY OF CHAPTER. This chapter applies to:

(1) emergency medical services provided by an out-of-network provider; and

(2) medical or health care services provided:

(A) to an individual covered by a managed care plan;

(B) within a hospital or similar facility; and

(C) by a facility-based physician or provider who is an out-of-network provider.

Sec. 1468.003. PAYMENT FROM MANAGED CARE PLAN: USUAL AND CUSTOMARY CHARGE. A physician or health care provider who provides a medical or health care service described by Section 1468.002 to an individual covered for the service under a managed care plan is entitled to payment from the individual's managed care plan in an amount equal to the usual and customary charge for the service, minus any deductible, copayment, or coinsurance for which the individual is responsible under the plan.

Sec. 1468.004. ARBITRATION OF USUAL AND CUSTOMARY CHARGE. If a physician or health care provider and a managed care plan issuer do not agree on the usual and customary charge for a medical or health care service that is subject to this chapter, the physician or health care provider or the managed care plan issuer may submit the dispute to arbitration to determine the usual and customary charge.

Sec. 1468.005. ARBITRATION PROCEDURES; ARBITRATOR QUALIFICATIONS. (a) The commissioner by rule shall:

(1) establish procedures for conducting an arbitration under this chapter; and

(2) prescribe qualifications for serving as an arbitrator under this chapter.

(b) The department shall maintain a list of arbitrators qualified to conduct arbitrations under this chapter.

Sec. 1468.006. APPEAL OF ARBITRATOR DETERMINATION. (a) On or before the 60th day after the date an arbitrator determines a usual and customary charge under this chapter, either party to the arbitration may file a petition for judicial review of the determination in a district court.

(b) The standard of review for judicial review under this section is de novo.

(c) In an action under this section, the amount determined by the arbitrator to be the usual and customary charge shall be admitted into evidence. There is a rebuttable presumption that the amount determined by the arbitrator is the usual and customary charge.

(d) The party that prevails in an action under this section is entitled to an award of the party's reasonable attorney's fees incurred in connection with the action.

(e) The managed care plan shall promptly pay the physician or provider the amount of the usual and customary charge determined by the court under this section.

Sec. 1468.007. APPLICABILITY OF CERTAIN OTHER LAW. Except to the extent of any conflict with this section, Chapter 171, Civil Practice and Remedies Code, applies to an arbitration conducted under this chapter.

Sec. 1468.008. PAYMENT FROM COVERED INDIVIDUAL. (a) Unless an individual who receives a medical or health care service to which this chapter applies agrees before the service is provided to a total charge for the service that exceeds the usual and customary charge, the physician or provider is not entitled to payment from the individual in excess of any required deductible, copayment, or coinsurance.

(b) If the physician or provider seeks to recover from the individual an amount that exceeds the amount allowed under this section, the physician or provider must:

(1) notify the individual of the usual and customary rate established in accordance with this chapter; and

(2) notify the individual that the individual is not required by law to pay the portion of the fee that exceeds the usual and customary rate unless the individual agreed to a higher rate before the service was provided.

(c) If a physician or provider bills an individual in violation of this section and the individual pays an amount that is higher than the individual would be required to pay under this section, the individual may file an action against the physician or provider to recover the amount of the overpayment and the individual's reasonable attorney's fees incurred in connection with recovering the overpayment.

(d) If a physician or health care provider files an action against an individual to recover payment for services that are subject to this chapter and is found to be seeking payment that exceeds the amount for which the individual is liable under this section, the individual is entitled to recover the individual's reasonable attorney's fees incurred in connection with the action.

SECTION ____ .003. The change in law made by this article applies only to medical or health care services provided on or after the effective date of this Act to an individual covered under a managed care plan delivered, issued for delivery, or renewed on or after the effective date of this Act and payment for those services.

Amendment No. 35 was withdrawn.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Public Education meeting is cancelled.

HB 1951 - (consideration continued)**Amendment No. 36**

Representative Keffer offered the following amendment to **HB 1951**:

Floor Packet Page No. 219

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 3 and renumbering remaining SECTIONS accordingly:

SECTION 3.____. Section 1651.056, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) With respect to a policy that was delivered, issued for delivery, or renewed on or before July 1, 2002, an insurer who obtains the commissioner's approval for an increase of a long-term care premium rate under Subsection (a) may not apply to the commissioner for a subsequent rate increase.

SECTION 3.____. Section 1651.056(d), Insurance Code, as added by this Act, applies to an application to the insurance commissioner for a rate increase on or after the effective date of this Act, without regard to whether the insurer previously obtained approval of an increase described by that subsection before, on, or after the effective date of this Act.

Amendment No. 36 was withdrawn.

Amendment No. 37

Representative Y. Davis offered the following amendment to **HB 1951**:

Floor Packet Page No. 221

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE _____. HEALTH BENEFIT PLAN COVERAGE OF HIV AND AIDS TEST

SECTION _____.001. Chapter 1364, Insurance Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. COVERAGE OF CERTAIN TESTING REQUIRED

Sec. 1364.151. DEFINITIONS. In this subchapter, "AIDS" and "HIV" have the meanings assigned by Section 81.101, Health and Safety Code.

Sec. 1364.152. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to a health benefit plan, including a large or small employer health benefit plan written under Chapter 1501, that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

- (1) an insurance company;
- (2) a group hospital service corporation operating under Chapter 842;
- (3) a fraternal benefit society operating under Chapter 885;
- (4) a stipulated premium company operating under Chapter 884;

- (5) a reciprocal exchange operating under Chapter 942;
 - (6) a Lloyd's plan operating under Chapter 941;
 - (7) a health maintenance organization operating under Chapter 843;
 - (8) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846; or
 - (9) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844.
- (b) Notwithstanding any provision in Chapter 1551, 1575, 1579, or 1601 or any other law, this chapter applies to:
- (1) a basic coverage plan under Chapter 1551;
 - (2) a basic plan under Chapter 1575;
 - (3) a primary care coverage plan under Chapter 1579; and
 - (4) basic coverage under Chapter 1601.

Sec. 1364.153. COVERAGE OF CERTAIN TESTING REQUIRED. A health benefit plan issuer may not exclude or deny coverage for the performance of medical tests or procedures to determine HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS, regardless of whether the test or medical procedure is related to the primary diagnosis of the health condition, accident, or sickness for which the enrollee seeks medical or surgical treatment.

Sec. 1364.154. RULES. The commissioner may adopt rules necessary to implement this subchapter.

SECTION ____ .002. The heading to Section 1507.004, Insurance Code, is amended to read as follows:

Sec. 1507.004. STANDARD HEALTH BENEFIT PLANS AUTHORIZED; MINIMUM REQUIREMENTS [REQUIREMENT].

SECTION ____ .003. Section 1507.004, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) Any standard health benefit plan must include coverage for tests or procedures to determine HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS as required by Subchapter D, Chapter 1364.

SECTION ____ .004. Section 1507.054, Insurance Code, is amended to read as follows:

Sec. 1507.054. STANDARD HEALTH BENEFIT PLANS AUTHORIZED; MINIMUM REQUIREMENTS. (a) A health maintenance organization authorized to issue an evidence of coverage in this state may offer one or more standard health benefit plans.

(b) Any standard health benefit plan must include coverage for tests or procedures to determine HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS as required by Subchapter D, Chapter 1364.

SECTION ____ .005. Subchapter D, Chapter 1364, Insurance Code, as added by this article, and Sections 1507.004 and 1507.054, Insurance Code, as amended by this article, apply only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2012. A health benefit plan

that is delivered, issued for delivery, or renewed before January 1, 2012, is covered by the law in effect at the time the health benefit plan was delivered, issued for delivery, or renewed, and that law is continued in effect for that purpose.

Amendment No. 37 was withdrawn.

Amendment No. 38

Representative Veasey offered the following amendment to **HB 1951**:
Floor Packet Page No. 224

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . INSURANCE COVERAGE FOR CHILD PASSENGER SAFETY SEAT SYSTEMS

SECTION ____ .01. Subchapter B, Chapter 1952, Insurance Code, is amended by adding Section 1952.059 to read as follows:

Sec. 1952.059. COVERAGE OF CHILD PASSENGER SAFETY SEAT SYSTEM. (a) In this section, "child passenger safety seat system" has the meaning assigned by Section 545.412, Transportation Code.

(b) This section applies to a moderate or severe traffic collision in which:

(1) a child passenger safety seat system suffers cracks or warping as a result of the collision;

(2) the vehicle door nearest the child safety seat was damaged;

(3) a vehicle occupant suffered an injury; or

(4) an airbag deployed.

(c) This section applies to a collision described by Subsection (b) regardless of whether the vehicle in which the seat was installed was driven from the scene of the collision.

(d) In addition to an insurer described by Section 1952.001, this section applies to a county mutual insurance company.

(e) An automobile insurance policy that provides liability coverage shall cover the cost of replacing a child passenger safety seat system damaged in a collision if:

(1) a driver covered by the policy is at fault for the collision; and

(2) the damaged child passenger safety seat system was installed in a vehicle other than the vehicle operated by the driver covered by the policy.

(f) Notwithstanding Subsection (e), an automobile insurance policy that provides collision coverage shall cover the cost of replacing a child passenger safety seat system damaged in a collision involving the covered vehicle, regardless of whether the operator of the covered vehicle is at fault.

Amendment No. 38 was withdrawn.

Amendment No. 39

Representative Hernandez Luna offered the following amendment to **HB 1951**:

Floor Packet Page No. 226

Amend **HB 1951** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ EMERGENCY EVACUATION LOSS COVERAGE

SECTION ____ .001. Subchapter A, Chapter 2002, Insurance Code, is amended by adding Section 2002.007 to read as follows:

Sec. 2002.007. COVERAGE FOR LOSSES INCURRED AS A RESULT OF COMPLIANCE WITH EMERGENCY EVACUATION ORDER. (a) In this section:

(1) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property that results from a natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, or other public calamity requiring emergency action, or an energy emergency.

(2) "Emergency evacuation order" means an official statement issued by the governing body of this state or a political subdivision of this state to recommend the evacuation of all or part of the population of an area stricken or threatened with a disaster. The term includes a declaration of local disaster under Section 418.108, Government Code.

(3) "Insurer" means an insurer authorized to write residential property insurance, including:

(A) a county mutual insurance company;

(B) a farm mutual insurance company;

(C) a Lloyd's plan; and

(D) a reciprocal or interinsurance exchange.

(4) "Political subdivision" means a county, municipality, special district, or authority of this state.

(5) "Residential property insurance" means property or property and casualty insurance covering a dwelling, including:

(A) homeowners insurance;

(B) residential fire and allied lines insurance;

(C) farm and ranch insurance;

(D) farm and ranch owners insurance; and

(E) renter's insurance.

(b) A residential property insurance policy delivered or issued for delivery by an insurer must provide coverage that complies with this section for loss incurred as a result of compliance with an emergency evacuation order applicable to the covered property.

(c) The coverage required by this section must provide a payment for each day or part of a day that the evacuation order is in effect. The commissioner by rule shall determine the terms and conditions and applicable limits of the required coverage and the amount of the required payment.

Representative L. Taylor moved to table Amendment No. 39.

The motion to table prevailed by (Record 939): 93 Yeas, 42 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Lozano; Mallory Caraway; Martinez; Martinez Fischer; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Cook; Gonzales, L.; Lucio; Schwertner.

Absent, Excused, Committee Meeting — Coleman; Kolkhorst; Ritter.

Absent — Alvarado; Jackson; Marquez; McClendon; Murphy.

STATEMENTS OF VOTE

When Record No. 939 was taken, I was in the house but away from my desk. I would have voted no.

Marquez

When Record No. 939 was taken, I was in the house but away from my desk. I would have voted no.

McClendon

LEAVE OF ABSENCE GRANTED

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

Geren on motion of Smithee.

(Ritter now present)

HB 1951 - (consideration continued)

Amendment No. 40

Representative Smithee offered the following amendment to **HB 1951**:

Floor Packet Page No. 228

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE _____. FAIR PLAN ASSOCIATION

SECTION _____. Subchapter A, Chapter 2211, Insurance Code, is amended by adding Section 2211.004 to read as follows:

Sec. 2211.004. APPLICABILITY OF CERTAIN OTHER LAW; LIMITATION ON DAMAGES. (a) The association may not be held liable for any amount on a claim filed under an insurance policy issued by the association other than:

(1) as applicable, amounts payable under the terms of the policy for loss to an insured structure, loss to contents of an insured structure, and additional living expenses; and

(2) court costs and reasonable attorney's fees.

(b) An insured may not recover consequential, punitive, or exemplary damages in a cause of action against the association, including damages under Section 541.152(b) of this code or Section 17.50, Business & Commerce Code, or interest in the amount described by Section 542.060 of this code.

SECTION _____. Section 2211.004, Insurance Code, as added by this article, applies only to a cause of action that accrues against the FAIR Plan Association on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect on the date the cause of action accrued, and the former law is continued in effect for that purpose.

Amendment No. 40 was adopted.

Amendment No. 41

Representative Hartnett offered the following amendment to **HB 1951**:

Floor Packet Page No. 234

Amend **HB 1951** (house committee printing) as follows:

(1) Strike SECTION 3.005 of the bill and substitute the following:

SECTION 3.005. Section 2251.107, Insurance Code, is amended to read as follows:

Sec. 2251.107. PUBLIC [~~INSPECTION OF~~] INFORMATION. Each filing made, and any supporting information filed, under this chapter is public information subject to Chapter 552, Government Code, including any applicable exception from required disclosure under that chapter [open to public inspection as of the date of the filing].

(2) Add the following appropriately numbered SECTIONS to ARTICLE 3 of the bill and renumber SECTIONS of the ARTICLE accordingly:

SECTION _____. Section 2251.002(8), Insurance Code, is amended to read as follows:

(8) "Supporting information" means:

(A) the experience and judgment of the filer and the experience or information of other insurers or advisory organizations on which the filer relied;

(B) the interpretation of any other information on which the filer relied;

(C) a description of methods used in making a rate; and

(D) any other information the department receives from a filer as a response to a request under Section 38.001 [~~requires to be filed~~].

SECTION _____. Sections 2251.002(8) and 2251.107, Insurance Code, as amended by this Act, apply only to a request to inspect information or to obtain public information made to the Texas Department of Insurance on or after the effective date of this Act. A request made before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

Amendment No. 41 was adopted.

Amendment No. 42

Representative Deshotel offered the following amendment to **HB 1951**:

Floor Packet Page No. 237

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 5 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 5.____. Section 2551.302, Insurance Code, is amended to read as follows:

Sec. 2551.302. REQUIREMENTS FOR REINSURING POLICIES. A title insurance company may reinsure any of its policies and contracts issued on real property located in this state or on policies and contracts issued in this state under Chapter 2751, if:

(1) the reinsuring title insurance company is authorized to engage in business in this state under this title; or [~~and~~]

(2) the title insurance company acquires reinsurance in accordance with Section 2551.305 [~~the department first approves the form of the reinsurance contract~~].

SECTION 5.____. Section 2551.305, Insurance Code, is amended to read as follows:

Sec. 2551.305. CERTAIN REINSURANCE ALLOWED.

(a) Notwithstanding any other provision of this subchapter, a title insurance company may acquire reinsurance on an individual policy or facultative basis from a title insurance company not authorized to engage in the business of title insurance in this state if:

(1) the title insurance company from which the reinsurance is acquired:

(A) has a combined capital and surplus of at least \$20 million as stated in the company's most recent annual statement preceding the acceptance of reinsurance; and

(B) is domiciled in another state and is authorized to engage in the business of title insurance in one or more states; and

(2) the title insurance company acquiring reinsurance gives written notice to the department at least 30 days before acquiring the reinsurance, and the commissioner does not, before the expiration of the 30-day period and on the ground that the transaction may result in a hazardous financial condition, prohibit the title insurance company from obtaining reinsurance under this section.

(b) The notice required under Subsection (a)(2) must provide sufficient information to enable the commissioner to evaluate the proposed transaction, including a summary of the significant terms of the reinsurance, the financial impact of the transaction on the title insurance company acquiring reinsurance, and the specific identity and state of domicile of each title insurance company from which reinsurance is acquired.

(c) Notwithstanding any other provision of this subchapter, the department may, on application and hearing, permit a title insurance company to acquire reinsurance that does not comply with Subsection (a) on an individual policy or facultative basis from a title insurance company domiciled in another state and not authorized to engage in the business of title insurance in this state, if:

(1) the company has exhausted the opportunity to acquire reinsurance from all other authorized title insurance companies; and

(2) the title insurance company from which the reinsurance is acquired has a combined capital and surplus of at least \$2 [~~\$1.4~~] million as stated in its annual statement preceding the acceptance of reinsurance.

(d) [~~(b)~~] Notwithstanding any other provision of this subchapter, the department may, on application and hearing, permit a title insurance company, including an authorized reinsuring title insurance company, to retain an additional potential liability of not more than 40 percent of the company's capital stock and surplus as stated in the most recent annual statement of the company, if:

(1) the company has exhausted the opportunity to acquire reinsurance under Subsection (c) [~~(a)~~]; and

(2) the additional potential liability of the company is incurred only if the loss suffered by the insured under the policy exceeds the amount of insurance and reinsurance accepted by the company and its reinsuring title insurance companies under the other provisions of this subchapter.

SECTION 5. _____. Section 2551.303, Insurance Code, is repealed.

SECTION 5. _____. Sections 2551.302 and 2551.305, Insurance Code, as amended by this article, and the repeal of Section 2551.303, Insurance Code, by this article, apply only to a reinsurance contract entered into by a title insurance company on or after the effective date of this Act. A reinsurance contract entered into by a title insurance company before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

Amendment No. 42 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 43

Representative Hancock offered the following amendment to **HB 1951**:

Floor Packet Page No. 240

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 1.____. Subchapter A, Chapter 2301, Insurance Code, is amended by adding Section 2301.010 to read as follows:

Sec. 2301.010. CONTRACTUAL LIMITATIONS PERIOD AND CLAIM FILING PERIOD IN CERTAIN PROPERTY INSURANCE FORMS. (a) A policy form or printed endorsement form for residential or commercial property insurance that is filed by an insurer or adopted by the department under this subchapter may provide for a contractual limitations period for filing suit on a first-party claim under the policy. The contractual limitations period may not end before the earlier of:

(1) two years from the date the insurer accepts or rejects the claim; or

(2) three years from the date of the loss that is the subject of the claim.

(b) A policy or endorsement described by Subsection (a) may contain a provision requiring that a claim be filed with the insurer not later than one year after the date of the loss that is the subject of the claim. A provision under this subsection must include a provision allowing the filing of claims after the first anniversary of the date of the loss for good cause shown by the person filing the claim.

(c) A contractual provision contrary to Subsection (a) or (b) is void. This subsection does not affect the validity of other provisions of a contract that may be given effect without the voided provision to the extent those provisions are severable.

SECTION 1.____. Section 16.070, Civil Practice and Remedies Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsections [Subsection] (b) and (c), a person may not enter a stipulation, contract, or agreement that purports to limit the time in which to bring suit on the stipulation, contract, or agreement to a period shorter than two years. A stipulation, contract, or agreement that establishes a limitations period that is shorter than two years is void in this state.

(c) This section does not apply to provisions related to claims covered by a residential or commercial property insurance policy that complies with Section 2301.010, Insurance Code.

SECTION 1.____. Section 2301.010, Insurance Code, as added by this article, applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2012. A policy delivered, issued for delivery, or renewed before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 43 was adopted.

Amendment No. 44

Representative Eiland offered the following amendment to **HB 1951**:

Floor Packet Page No. 242

Amend **HB 1951** (house committee printing) by inserting the following appropriately numbered Article of the bill and renumbering existing Articles of the bill accordingly:

ARTICLE ____ . STANDARD FORMS

SECTION ____ .001. Section 2301.008, Insurance Code, is amended to read as follows:

Sec. 2301.008. ADOPTION AND USE OF STANDARD FORMS. The commissioner shall ~~[may]~~ adopt standard insurance policy forms, printed endorsement forms, and related forms other than insurance policy forms and printed endorsement forms, that an insurer shall ~~[may]~~ use in addition to ~~[instead of]~~ the insurer's own forms in writing insurance subject to this subchapter.

SECTION ____ .002. Section 2301.052(b), Insurance Code, is amended to read as follows:

(b) Subject to Section 2301.0525, an ~~[An]~~ insurer may continue to use an insurance policy form or endorsement promulgated, approved, or adopted under Article 5.06 or 5.35 before June 11, 2003, on written notification to the commissioner that the insurer will continue to use the form or endorsement.

SECTION ____ .003. Subchapter B, Chapter 2301, Insurance Code, is amended by adding Section 2301.0525 to read as follows:

Sec. 2301.0525. USE OF MINIMUM STANDARD INSURANCE POLICY FORMS REQUIRED. (a) Each insurer that writes residential property insurance in this state shall use the standard insurance policy forms adopted by the commissioner under Section 2301.008 for residential property insurance and, subject to Subsection (b), may also use alternative policy forms approved by the commissioner under Section 2301.006.

(b) An insurer may not deliver or issue for delivery in this state a residential property insurance policy unless the insurer informs each applicant for that insurance coverage, in the manner prescribed by commissioner rule, that an applicant otherwise qualified for that insurance coverage under this code may elect to obtain residential property insurance coverage under a standard insurance policy adopted by the commissioner under Section 2301.008.

(c) An insurer that offers coverage under the standard policy forms shall disclose to the applicant or insured, at the time of the initial application and each renewal, each policy limit and type of coverage available to the insured and the respective costs for each coverage. The form of the disclosure shall be specified by the commissioner, subject to Section 2301.053(c).

(d) An insurer that offers coverage under approved forms other than the standard policy forms shall disclose to the applicant or insured, at the time of the initial application and each renewal, in comparison to the standard policy forms each additional coverage that is provided and the additional cost, each reduction in coverage or exclusion of coverage and the reduced cost, and each policy limit and type of coverage available to the insured and the respective costs for each coverage. The form of the disclosure shall be specified by the commissioner,

subject to Section 2301.053(c). At a minimum, the disclosure must refer the applicant or insured to the Internet website described by Section 32.102 and state that the applicant may compare the rates of insurers at that site.

SECTION ____ .004. The change in law made by this article applies only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2012. A policy delivered, issued for delivery, or renewed before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 44 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 45

Representative Truitt offered the following amendment to **HB 1951**:
Floor Packet Page No. 245

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE and renumbering remaining ARTICLES accordingly:

ARTICLE ____ . SURETY BONDS AND RELATED INSTRUMENTS

SECTION ____ . Section 3503.005(a), Insurance Code, is amended to read as follows:

(a) A bond that is made, given, tendered, or filed under Chapter 53, Property Code, or Chapter 2253, Government Code, may be executed only by a surety company that is authorized to write surety bonds in this state. If the amount of the bond exceeds \$100,000, the surety company must also:

(1) hold a certificate of authority from the United States secretary of the treasury to qualify as a surety on obligations permitted or required under federal law; or

(2) have obtained reinsurance for any liability in excess of \$1 million [~~\$100,000~~] from a reinsurer that:

(A) is an authorized reinsurer in this state; or ~~and~~

(B) holds a certificate of authority from the United States secretary of the treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law.

SECTION ____ . Section 3503.004(b), Insurance Code, is repealed.

Amendment No. 45 was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 46

Representative Torres offered the following amendment to **HB 1951**:
Floor Packet Page No. 246

Amend **HB 1951** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Section 4102.104, Insurance Code, is amended by amending Subsection (a) and adding Subsections (f) and (g) to read as follows:

(a) Except as provided by Subsection (b), a license holder may receive a commission for service provided under this chapter consisting of an hourly fee, a flat rate, a percentage of the total amount paid by an insurer to resolve a claim, or another method of compensation. Subject to Subsection (g), the [The] total commission received, excluding sales tax, may not exceed 10 percent of the amount of the insurance settlement on the claim.

(f) A license holder may be paid a commission that is based, in part, on an amount paid by, or a negotiable instrument issued by, the insurer to an insured before the effective date of the public insurance adjuster's contract with the insured, if the insurer obtains the insured's written consent to the payment.

(g) A commission paid under Subsection (f) may not exceed the lesser of:

(1) 25 percent of the difference between the amount the public insurance adjuster obtained to resolve a claim on behalf of the insured and the amount the insurer initially offered to pay the insured to resolve the claim; or

(2) 10 percent of the total amount paid by the insurer to resolve a claim under Subsection (a).

SECTION _____. The changes in law made to Section 4102.104, Insurance Code, by this Act apply only to a commission paid on or after the effective date of this Act. A commission paid before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 46 was withdrawn.

Amendment No. 47

Representative Lucio offered the following amendment to **HB 1951**:

Floor Packet Page No. 248

Amend **HB 1951** by striking Section 4202.002(c), Insurance Code, and replacing it with the following language and renumbering existing SECTIONS accordingly:

SECTION _____. Section 4202.002, Insurance Code, is amended to read as follows:

Sec. 4202.002. ADOPTION OF STANDARDS FOR INDEPENDENT REVIEW ORGANIZATIONS. (c) In addition to the standards described by Subsection (b), the commissioner shall adopt standards and rules that:

(1) prohibit:

(A) an individual or entity from owning more than one independent review organization;

(B) an individual from owning in or serving on the board of more than one independent review organization;

(C) an individual who has served on the board of an independent review organization whose certification was revoked for cause from serving on the board of another independent review organization before the fifth anniversary of the date on which the revocation occurred; and

(D) an independent review organization from disclosing confidential patient information, except to a provider who is under contract to perform the review.

(2) require:

(A) an independent review organization to be based and certified in this state and to locate the organization's primary offices in this state.

Amendment No. 47 was withdrawn.

Amendment No. 48

Representative Farrar offered the following amendment to **HB 1951**:

Floor Packet Page No. 6

Amend **HB 1951** (house committee printing) as follows:

(1) On page 2, line 2, strike "2023" and substitute "2017".

Amendment No. 48 was withdrawn.

Amendment No. 49

Representative Farrar offered the following amendment to **HB 1951**:

Floor Packet Page No. 7

Amend **HB 1951** (house committee printing) as follows:

(1) On page 11, line 1, strike "An" and substitute "Except as provided by Subchapter D, an".

(2) Add the following appropriately numbered SECTIONS to ARTICLE 3 of the bill and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION 3. ____ Subchapter D, Chapter 2251, Insurance Code, is amended by adding Section 2251.1511 to read as follows:

Sec. 2251.1511. PRIOR APPROVAL FOR CERTAIN CONSUMER PROPERTY INSURANCE RATES. (a) Notwithstanding any other provision of this chapter, an insurer may not use a rate for residential property insurance or personal automobile insurance until the rate and all other information required by Section 2251.101 have been filed with the department and the rate has been approved by the commissioner. The department shall track, compile, and routinely analyze the factors that contribute to the disapproval of rates under this section.

(b) Sections 2251.151(b) and (d) apply to rates filed under this section.

(c) Section 2251.152 does not apply to rates for which prior approval is required by this section.

SECTION 3. ____ Section 2251.1511, Insurance Code, as added by this Act, applies only to rates for residential property insurance or personal automobile insurance that is delivered, issued for delivery, or renewed on or after January 1, 2012. Rates for residential property insurance or personal automobile insurance delivered, issued for delivery, or renewed before January 1, 2012, are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(3) On page 15, line 16, between "Section 2251.153(a)(2)" and the comma, insert "or 2251.1511".

Representative L. Taylor moved to table Amendment No. 49.

The motion to table prevailed by (Record 940): 93 Yeas, 45 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Cook; Geren; Gonzales, L.; Lucio; Schwertner.

Absent, Excused, Committee Meeting — Coleman; Kolkhorst.

Absent — Carter; Pickett.

Amendment No. 50

Representative Castro offered the following amendment to **HB 1951**:

Floor Packet Page No. 13

Amend **HB 1951** (house committee printing) as follows:

(1) On page 15, strike lines 24-25 and substitute "SECTION 3.008. Section 2254.003, Insurance Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:"

(2) On page 16, between lines 2 and 3, insert the following:

(a-1) If the department provides an insurer with formal written notice that a rate is excessive or unfairly discriminatory, then the insurer may file a new rate or take other corrective action to substantially address the department's concerns. The new rate or other corrective action must be filed on or before the 60th day following the date of formal written notice. At the commissioner's discretion, the commissioner may extend the deadline to file by an additional 30 days. If the department accepts the new rate or other corrective action, then the insurer shall, according to commissioner order, refund or issue a premium discount directly to each affected policyholder on the portion of the premium found to be excessive

or unfairly discriminatory, plus interest on that amount. The interest rate to be paid on refunds or discounts under this subsection is the sum of six percent and the prime rate for the calendar year in which formal written notice is given. For purposes of this subsection, the prime rate is the prime rate as published in The Wall Street Journal for the first day of the calendar year that is not a Saturday, Sunday, or legal holiday.

(a-2) If the insurer does not file or take, or the department does not accept, a new rate or other corrective action as provided under Subsection (a-1), and the commissioner issues an order disapproving the rate as excessive or unfairly discriminatory under Section 2251.104, then the insurer must refund or issue a premium discount directly to each affected policyholder on the portion of the premium found to be excessive or unfairly discriminatory, plus interest on that amount. The interest rate to be paid on refunds or discounts under this subsection is 18 percent. An insurer is not required to pay any interest penalty if the insurer prevails in an appeal of the commissioner's order under Subchapter D, Chapter 36.

(a-3) The period for the refund and interest begins on the date the department first provides the insurer with formal written notice that the insurer's filed rate is excessive or unfairly discriminatory, and interest continues to accrue until the refund or discount is paid or issued.

Representative L. Taylor moved to table Amendment No. 50:

The motion to table prevailed by (Record 941): 93 Yeas, 46 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Cook; Geren; Gonzales, L.; Lucio; Schwertner.

Absent, Excused, Committee Meeting — Coleman; Kolkhorst.

Absent — Hartnett.

Amendment No. 51

Representative Castro offered the following amendment to **HB 1951**:
Floor Packet Page No. 11

Amend **HB 1951** (house committee printing) as follows:

(1) On page 15, lines 24 and 25, strike "Section 2254.003(a), Insurance Code, is amended to read as follows" and substitute "Sections 2254.003(a) and (b), Insurance Code, are amended to read as follows".

(2) On page 16, between lines 2 and 3, insert the following:

(b) Except as provided by Section 2254.004(c), if the commissioner determines that an insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory, as described by Section 2251.051, the commissioner shall ~~may~~

~~[(1)] order the insurer to refund directly to each affected policyholder the portion of the premium, plus interest on that amount, that is excessive or unfairly discriminatory [if that portion of the premium is at least 7.5 percent of the total premium charged for the coverage; or~~

~~[(2) if that portion of the premium is less than 7.5 percent of the total premium, order the insurer to provide, to each affected policyholder:~~

~~[(A) who renews the policy, a future premium discount equal to the amount of the excessive or unfairly discriminatory portion of the premium, plus interest on that amount; and~~

~~[(B) who does not renew or whose coverage is otherwise terminated, a refund in the amount described by Subdivision (1)].~~

(3) In ARTICLE 3 of the bill, add the following appropriately numbered SECTION and renumber subsequent SECTIONS of the ARTICLE accordingly:

SECTION 3.____. Chapter 2254, Insurance Code, is amended by adding Section 2254.005 to read as follows:

Sec. 2254.005. ADMINISTRATIVE PENALTY. If the commissioner determines after a hearing that an insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory, as described by Section 2251.051, the commissioner shall order the insurer to pay an administrative penalty in the amount of \$100 for each policy delivered, issued for delivery, or renewed at the excessive or unfairly discriminatory rate. This penalty is in addition to any other penalties imposed under this code.

Representative L. Taylor moved to table Amendment No. 51.

The motion to table prevailed by (Record 942): 93 Yeas, 44 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver;

Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Lozano; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Cook; Geren; Gonzales, L.; Lucio; Schwertner.

Absent, Excused, Committee Meeting — Coleman; Kolkhorst.

Absent — King, T.; Marquez; Murphy.

Amendment No. 52

On behalf of Representative McClendon, Representative Farrar offered the following amendment to **HB 1951**:

Floor Packet Page No. 27

Amend **HB 1951** (house committee printing) as follows:

(1) On page 23, line 19, strike "COLLECTION".

(2) Add the following appropriately numbered SECTION to ARTICLE 7 and renumber subsequent SECTIONS of the ARTICLE accordingly:

SECTION 7.____. Chapter 1953, Insurance Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. DATA MINING AND PATTERN RECOGNITION

Sec. 1953.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies to an insurer writing automobile insurance in this state, including an insurance company, reciprocal or interinsurance exchange, county mutual insurance company, farm mutual insurance company, Lloyd's plan, or other insurer.

Sec. 1953.152. COLLECTION OF INFORMATION CONCERNING DATA MINING AND PATTERN RECOGNITION. (a) The commissioner by rule may require an insurer to report to the department concerning:

(1) technologies to be used by the insurer to identify relationships among variables that are used to predict differences in expected losses of covered persons or applicants for automobile insurance coverage or are otherwise used in the activities of regulated entities; and

(2) the manner in which the insurer intends to use the relationships derived from the technologies described by Subdivision (1) in:

- (A) underwriting and creating and defining risk classifications;
- (B) setting rates and premiums, as applicable;
- (C) detecting fraudulent claims;
- (D) identifying subrogation opportunities;
- (E) improving marketing; or
- (F) performing other activities identified by the commissioner; and

(3) services provided by third party loss-evaluation services to identify loss statistics and information for the purpose of evaluating claims, loss-settlement reserves, and losses paid and the manner in which the insurer uses those services and the information obtained.

(b) In exercising the commissioner's authority under this section, the commissioner may require that insurers report with respect to selected segments of the market and may limit the reporting to specific uses of relationships derived from the technologies.

(c) Underwriting guidelines, loss and claims evaluation data, and related information obtained by the commissioner under this section are subject to Section 38.003. Other information obtained under this section is commercial information not subject to the disclosure requirements of Chapter 552, Government Code.

Sec. 1953.153. ADMINISTRATIVE PENALTIES. If the department determines that an insurer has violated this chapter or a rule adopted under this chapter, the department shall assess administrative penalties against the insurer in the manner provided by Chapter 84. The amount of an administrative penalty imposed under this section shall be based on:

- (1) the seriousness of the violation, including the nature, circumstances, extent, or gravity of the violation; and
- (2) the economic harm caused by the violation.

Sec. 1953.154. REPORT TO LEGISLATURE. The department shall include in its biennial report to the legislature under Section 32.022 information concerning the use of relationships derived from the technologies described by Section 1953.152 by insurers. The information must include the impact of the use of those relationships on insurance and other coverage to covered persons and applicants for coverage in this state. The report must include, as applicable, recommendations for:

- (1) proposed legislation appropriate to regulate the use of relationships derived from the technologies; and
- (2) means to facilitate availability of insurance in underserved markets and to maintain fair and equitable loss-evaluation and claims settlement practices in this state.

Representative L. Taylor moved to table Amendment No. 52.

The motion to table prevailed by (Record 943): 93 Yeas, 45 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Cook; Geren; Gonzales, L.; Lucio; Schwertner.

Absent, Excused, Committee Meeting — Coleman; Kolkhorst.

Absent — Darby; Pickett.

Amendment No. 53

Representative McClendon offered the following amendment to **HB 1951**:

Floor Packet Page No. 72

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ HEALTH BENEFIT PLAN INNOVATIONS PROGRAM

SECTION ____ .001. Subtitle B, Title 5, Insurance Code, is amended by adding Chapter 525 to read as follows:

CHAPTER 525. HEALTH BENEFIT PLAN INNOVATIONS PROGRAM

Sec. 525.001. PROGRAM ESTABLISHED. (a) The department shall develop and implement a health benefit plan innovations program to study the number of uninsured individuals in this state, the reasons those individuals are uninsured, and possible solutions that would expand access to affordable health benefit plan coverage in this state.

(b) The department shall use department employees already employed in the consumer protection division of the department to implement the program. The department may not hire full-time employees whose primary job functions would solely be implementation of the program.

Sec. 525.002. PROGRAM COMPONENTS. (a) Except as provided by Subsection (b), the program implemented under this chapter must:

(1) collect and analyze data concerning the number, age, and demographic characteristics of uninsured individuals in this state;

(2) identify the reasons why individuals in this state are uninsured;

(3) examine and evaluate the effectiveness of programs implemented in other states to reduce the number of uninsured residents in those states;

(4) monitor and evaluate the health benefit market in this state and determine whether residents of this state have sufficient access to a variety of health benefit plan products to ensure adequate health benefit plan coverage; and

(5) make recommendations to the department and to the legislature concerning programs or initiatives to be implemented in this state to reduce the number of uninsured residents in this state.

(b) The program must supplement and may not duplicate a service or function of another existing program or state agency and shall refer consumers to other programs and agencies where appropriate.

(c) The program may:

(1) operate a statewide clearinghouse for objective consumer information about health care coverage, including options for obtaining health care coverage;

(2) collect, track, and quantify problems and inquiries encountered by consumers;

(3) educate consumers on their rights and responsibilities with respect to group health plans and health insurance coverages;

(4) provide existing health-related information to the general public and health care providers to improve the quality of and access to health care; and

(5) establish an advisory committee composed of state agencies to increase collaboration and coordination of health-related programs and benefits.

(d) The department shall coordinate program components that involve market and cost research or data collection and analysis with health benefit plan issuers and the Health and Human Services Commission to ensure the collection and analysis of complete and accurate information.

Sec. 525.003. REPORT. The department shall include in its biennial report to the legislature under Section 32.022 the program's findings concerning the information and recommendations described by Section 525.002.

Sec. 525.004. FUNDING. The department shall make a reasonable effort to obtain funding in the form of gifts and grants from the federal government or an organization or other private party that does not have a potential conflict of interest with the department or the goals of this chapter to assist with funding the program. The department shall adopt rules governing acceptance of gifts and grants that are consistent with the provisions for acceptance of gifts under Chapter 575, Government Code. Before adopting rules under this section, the department shall:

(1) submit the proposed rules to the Texas Ethics Commission for review; and

(2) consider that commission's recommendations regarding the proposed rules.

Sec. 525.005. RULES. The commissioner may adopt rules as necessary to implement this chapter.

Amendment No. 54

Representative Perry offered the following amendment to Amendment No. 53:

Amend Amendment No. 53 by McClendon to **HB 1951** by adding the following appropriately numbered item to the amendment and renumbering subsequent items of the amendment accordingly:

() Add the following SECTION, appropriately numbered, to ARTICLE 1 of the bill and renumber subsequent SECTIONS of the ARTICLE accordingly:

SECTION _____. (a) The Texas Department of Insurance shall conduct a study concerning the feasibility and effectiveness of the establishment of a mandatory medical reinsurance program in this state through which issuers of group health benefit plans offered by employers with 100 or fewer employees would be required to purchase reinsurance.

(b) The study conducted under this section must:

(1) include an analysis of data from calendar years 2009, 2010, and 2011; and

(2) seek to determine what effect, if any, the establishment of a medical reinsurance program described by Subsection (a) of this section would have had on premium rates, renewal rates, and overall costs to employers during calendar years 2009, 2010, and 2011, had the program been operational during those years.

(c) The department may request information from the Employees Retirement System of Texas, the Teacher Retirement System of Texas, and health benefit plan issuers in this state as necessary to complete the study required under this section.

(d) The department shall include the results of the study conducted under this section in the biennial report submitted to the legislature under Section 32.022, Insurance Code, nearest to December 31, 2012.

Amendment No. 54 was adopted.

Amendment No. 53, as amended, was adopted. (Laubenberg and V. Taylor recorded voting no.)

Amendment No. 55

Representative Eiland offered the following amendment to **HB 1951**:

Floor Packet Page No. 84

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering existing ARTICLES of the bill accordingly:

ARTICLE ____ . APPRAISALS UNDER PROPERTY INSURANCE
POLICIES

SECTION ____ .001. Subchapter B, Chapter 542, Insurance Code, is amended by adding Section 542.063 to read as follows:

Sec. 542.063. APPRAISALS. (a) A request for appraisal with respect to a claim under a property insurance policy must be made not later than the 60th day after the date the person requesting the appraisal first receives notice of a dispute as to the amount of insurance proceeds paid, estimated, or to be paid by the insurer for the claim. The failure to invoke an appraisal provision in a property insurance policy in the time required by this subsection constitutes a waiver of the provision as a matter of law.

(b) A decision resulting from the appraisal process under a property insurance policy is binding only as to the amount of loss. An appraisal may not be used to determine liability issues such as coverage, causation, extent of damage, or conditions or limits imposed by the policy. The appraisal decision does not affect any other remedy available at law.

(c) An appraisal under a property insurance policy is available only if the insurer and the insured agree, by stipulation or otherwise, on liability, coverage, causation, extent of damage, and conditions or limits imposed by the policy.

SECTION ____ .002. The heading to Subchapter B, Chapter 542, Insurance Code, is amended to read as follows:

SUBCHAPTER B. PROMPT PAYMENT OF CLAIMS; APPRAISALS

SECTION ____ .003. Section 542.063, Insurance Code, as added by this article, applies only to a dispute that arises on or after the effective date of this Act. A dispute that arises before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 55 was withdrawn.

Amendment No. 56

Representative Walle offered the following amendment to **HB 1951**:
Floor Packet Page No. 95

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ . CREDIT SCORING

SECTION ____ .001. Sections 559.001(2), (4), and (7), Insurance Code, are amended to read as follows:

(2) "Agent" means a person licensed or required to be licensed as a [general] property and casualty insurance agent [~~or a personal lines property and casualty agent~~] under Subchapter B, C, D, or E, Chapter 4051.

(4) "Consumer" means an individual whose credit information has been reported to or is in the possession of a consumer reporting agency or an insurer [~~is used or whose credit score is computed in the underwriting or rating of a personal insurance policy~~]. The term includes an applicant for insurance coverage.

(7) "Credit report" means any written, oral, or other communication of information by a consumer reporting agency that:

~~[(A)] bears on a consumer's creditworthiness, credit standing, or credit capacity;~~ and

~~[(B)] is used or expected to be used or collected in whole or in part to serve as a factor to determine personal insurance premiums, eligibility for coverage, or tier placement].~~

SECTION ____ .002. Section 559.002, Insurance Code, is amended to read as follows:

Sec. 559.002. **APPLICABILITY OF CHAPTER.** This chapter applies to each ~~[an]~~ insurer that writes personal insurance coverage ~~[and uses credit information or credit reports for the underwriting or rating of that coverage].~~

SECTION ____ .003. Section 559.052, Insurance Code, is amended to read as follows:

Sec. 559.052. **[PROHIBITED] USE OF CREDIT INFORMATION PROHIBITED.** (a) An insurer may not:

(1) use an underwriting guideline [a credit score] that is based wholly or partly on the credit information, credit report, or credit score of an applicant for insurance coverage or any person other than the applicant who would be insured under a policy of personal insurance [computed using factors that constitute unfair discrimination];

(2) refuse to underwrite or [deny,] cancel[;] or nonrenew a policy of personal insurance based wholly or partly [solely] on the [basis of] credit information, credit report, or credit score of an applicant for insurance coverage or any person other than the applicant who would be insured under the policy [without considering any other applicable underwriting factor independent of credit information]; [or]

(3) take an action that results in an adverse effect against a consumer because the consumer does not have a credit card account;

(4) charge an applicant for insurance coverage a higher premium than otherwise would be charged based wholly or partly on the credit information, credit report, or credit score of the applicant or any person other than the applicant who would be insured under a policy of personal insurance;

(5) rate a risk based wholly or partly on the credit information, credit report, or credit score of an applicant for insurance coverage or any person other than the applicant who would be insured under a policy of personal insurance, including:

(A) providing or removing a discount;

(B) assigning the applicant for insurance coverage to a rating tier;

or

(C) placing an applicant for insurance coverage with an affiliated company; or

(6) require a particular payment plan based wholly or partly on the credit information, credit report, or credit score of the applicant for insurance coverage or any person other than the applicant who would be insured under a policy of personal insurance [without considering any other applicable factor independent of credit information].

(b) An insurer may not consider an absence of credit information or an inability to determine credit information for an applicant for insurance coverage or for an insured as a factor in underwriting or rating an insurance policy ~~[unless the insurer:~~

~~(1) has statistical, actuarial, or reasonable underwriting information that:~~

~~[(A) is reasonably related to actual or anticipated loss experience; and~~

~~(B) shows that the absence of credit information could result in actual or anticipated loss differences;~~

~~(2) treats the consumer as if the applicant for insurance coverage or insured had neutral credit information, as defined by the insurer; or~~

~~(3) excludes the use of credit information as a factor in underwriting and uses only other underwriting criteria].~~

SECTION ____.004. Section 559.055, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) This section expires September 1, 2012.

SECTION ____.005. The following laws are repealed:

(1) Section 559.004(b), Insurance Code;

(2) Sections 559.003, 559.051, 559.053, 559.054, and 559.056, Insurance Code; and

(3) Subchapters C and D, Chapter 559, Insurance Code.

SECTION ____.006. (a) The changes in law made by this article apply only to a personal insurance policy:

(1) that is delivered, issued for delivery, or renewed on or after January 1, 2012;

(2) the application for which is submitted on or after January 1, 2012; or

(3) that is subject to determination of denial, cancellation, or nonrenewal on or after January 1, 2012.

(b) A personal insurance policy delivered, issued for delivery, or renewed before January 1, 2012, or the application for which is submitted before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Representative L. Taylor moved to table Amendment No. 56.

The motion to table prevailed by (Record 944): 94 Yeas, 46 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver;

Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Cook; Geren; Gonzales, L.; Lucio; Schwertner.

Absent, Excused, Committee Meeting — Coleman; Kolkhorst.

Amendment No. 57

Representative Gallego offered the following amendment to **HB 1951**:

Floor Packet Page No. 102

Amend **HB 1951** as follows:

Insert the following appropriately numbered SECTION and renumber the SECTIONS of the bill accordingly.

SECTION _____. Subtitle C, Title 5, Insurance Code, is amended by adding Chapter 565 to read as follows:

CHAPTER 565. PROHIBITING PRACTICES RELATED TO DISPUTE RESOLUTION.

Sec. 565.001. APPLICABILITY OF CHAPTER. This chapter applies to an insurance policy or other coverage agreement acquired by the covered person for personal, family, or household purposes issued by a company regulated by the commissioner, including:

(1) a domestic or foreign, stock or mutual, life, health, or accident insurance company;

(2) a domestic or foreign, stock or mutual, fire or casualty insurance company;

(3) a Mexican casualty company;

(4) a domestic or foreign Lloyd's plan;

(5) a domestic or foreign reciprocal or inter-insurance exchange;

(6) a domestic or foreign fraternal benefit society;

(7) a domestic or foreign title insurance company;

(8) an attorney's title insurance company;

- (9) a stipulated premium company;
- (10) a nonprofit legal service corporation;
- (11) a health maintenance organization;
- (12) a statewide mutual assessment company;
- (13) a local mutual aid association;
- (14) a local mutual burial association;
- (15) an association exempt under Section 887.102;
- (16) a nonprofit hospital, medical, or dental service corporation, including a company subject to Chapter 842;
- (17) a county mutual insurance company; and
- (18) a farm mutual insurance company.

Sec. 565.002. PROVISION REQUIRING ARBITRATION PROHIBITED.

(a) An insurance policy or other coverage agreement may not require the covered person to submit to arbitration a dispute related to the coverage that arises after the agreement is entered into.

(b) If a written agreement that involves the provision of insurance and other services, goods, property, or credit includes a provision that requires a dispute under the agreement to be submitted to arbitration, the agreement must include a clear and conspicuous disclosure that the mandatory arbitration provision does not apply to any insurance-related dispute under the agreement.

(c) A provision in an insurance policy or other coverage agreement that violates this section is void and unenforceable.

Sec. 565.003. LIABILITY. (a) A person described by Section 565.001 that issues a coverage agreement that violates this section is liable to the covered person for:

- (1) the covered person's actual damages sustained as a result of the violation;
- (2) \$100, regardless of whether actual damages are sustained; and
- (3) the covered person's attorney's fees and costs to recover under this subsection.

(b) A contract provision that requires an action to enforce this section to be submitted to arbitration is void and unenforceable.

(Kolkhorst now present)

Representative L. Taylor moved to table Amendment No. 57.

The motion to table prevailed by (Record 945): 92 Yeas, 46 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Flynn; Frullo; Garza; Gooden; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Scott;

Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Mallory Caraway; Marquez; Martinez; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Cook; Geren; Gonzales, L.; Lucio; Schwertner.

Absent, Excused, Committee Meeting — Coleman.

Absent — Fletcher; Harless; Martinez Fischer.

Amendment No. 58

Representative Veasey offered the following amendment to **HB 1951**:

Floor Packet Page No. 224

Amend **HB 1951** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . INSURANCE COVERAGE FOR CHILD PASSENGER
SAFETY SEAT SYSTEMS

SECTION ____ .01. Subchapter B, Chapter 1952, Insurance Code, is amended by adding Section 1952.059 to read as follows:

Sec. 1952.059. COVERAGE OF CHILD PASSENGER SAFETY SEAT SYSTEM. (a) In this section, "child passenger safety seat system" has the meaning assigned by Section 545.412, Transportation Code.

(b) This section applies to a moderate or severe traffic collision in which:

(1) a child passenger safety seat system suffers cracks or warping as a result of the collision;

(2) the vehicle door nearest the child safety seat was damaged;

(3) a vehicle occupant suffered an injury; or

(4) an airbag deployed.

(c) This section applies to a collision described by Subsection (b) regardless of whether the vehicle in which the seat was installed was driven from the scene of the collision.

(d) In addition to an insurer described by Section 1952.001, this section applies to a county mutual insurance company.

(e) An automobile insurance policy that provides liability coverage shall cover the cost of replacing a child passenger safety seat system damaged in a collision if:

(1) a driver covered by the policy is at fault for the collision; and

(2) the damaged child passenger safety seat system was installed in a vehicle other than the vehicle operated by the driver covered by the policy.

(f) Notwithstanding Subsection (e), an automobile insurance policy that provides collision coverage shall cover the cost of replacing a child passenger safety seat system damaged in a collision involving the covered vehicle, regardless of whether the operator of the covered vehicle is at fault.

(Lucio now present)

Amendment No. 58 was withdrawn.

Amendment No. 59

On behalf of Representative Gutierrez, Representative Walle offered the following amendment to **HB 1951**:

Floor Packet Page No. 34

Amend **HB 1951** (house committee printing) by inserting the following appropriately numbered ARTICLE and renumbering ARTICLES of the bill accordingly:

ARTICLE ____ ELECTION OF COMMISSIONER

SECTION ____ .001. Section 31.022, Insurance Code, is amended to read as follows:

Sec. 31.022. ELECTION [~~APPOINTMENT; TERM~~]. The commissioner is elected by the qualified voters at the general election for state and county officers for a term of four years. [~~(a) The governor, with the advice and consent of the senate, shall appoint the commissioner. The commissioner serves a two year term that expires on February 1 of each odd numbered year.~~

[~~(b) The governor shall appoint the commissioner without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.~~]

SECTION ____ .002. Section 31.024, Insurance Code, is amended to read as follows:

Sec. 31.024. INELIGIBILITY FOR PUBLIC OFFICE. The commissioner is ineligible to be a candidate for another [~~a~~] public elective office in this state, unless the commissioner has resigned and the governor has accepted the resignation.

SECTION ____ .003. Section 31.027(a), Insurance Code, is amended to read as follows:

(a) It is a ground for removal from office if the commissioner:

(1) [~~does not have at the time of appointment the qualifications required by Section 31.023;~~

[~~(2) does not maintain during service as commissioner the qualifications required by Section 31.023;~~

[~~(3) violates a prohibition established by Section 33.001, 33.003, [33.004,] or 33.005; or~~

(2) [(4)] cannot, because of illness or disability, discharge the commissioner's duties for a substantial part of the commissioner's term.

SECTION ____ .004. Section 31.041(c), Insurance Code, is amended to read as follows:

(c) A person appointed as an associate or deputy commissioner or to hold an equivalent position must have at least five years of [the] experience in the administration of business or government or as a practicing attorney or certified public accountant ~~[required for appointment as commissioner under Section 31.023]~~. At least two years of that experience must be in work related to the position to be held.

SECTION ____ .005. Sections 33.004(a) and (b), Insurance Code, are amended to read as follows:

(a) A person who is an officer, employee, or paid consultant of a trade association in the field of insurance may not be[:

~~(1) the commissioner; or~~

~~(2) an employee of the department in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) [who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule].~~

(b) A person who is the spouse of an officer, manager, or paid consultant of a trade association in the field of insurance may not be[:

~~(1) the commissioner; or~~

~~(2) an employee of the department in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) [who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule].~~

SECTION ____ .006. Section 911.001(c), Insurance Code, is amended to read as follows:

(c) Except to the extent of any conflict with this chapter, the following provisions apply to a farm mutual insurance company:

- (1) Subchapter A, Chapter 32;
- (2) Subchapter D, Chapter 36;
- (3) Sections 31.002(2), 32.021(c), 32.023, 32.041, ~~[33.002,]~~ 38.001, 81.001-81.004, 201.005, 201.055, 401.051, 401.052, 401.054-401.062, 401.103-401.106, 401.151, 401.152, 401.155, 401.156, 421.001, 801.051-801.055, 801.057, 801.101, 801.102, 822.204, 841.004, 841.251, 841.252, 862.101, 1806.001, 1806.101, 1806.103(b), and 1806.104-1806.107;
- (4) Chapter 86;
- (5) Subchapter A, Chapter 401;
- (6) Subchapter B, Chapter 404;
- (7) Chapter 422;
- (8) Subchapter B, Chapter 424, other than Section 424.052, 424.072, or 424.073;
- (9) Chapter 441;

- (10) Chapter 443;
- (11) Chapter 462;
- (12) Chapter 481;
- (13) Chapter 541;
- (14) Chapter 802;
- (15) Subchapter A, Chapter 805;
- (16) Chapter 824; and
- (17) Article 1.09-1.

SECTION ____ .007. Section 961.002(b), Insurance Code, is amended to read as follows:

(b) The following provisions of this code apply to a nonprofit legal services corporation in the same manner that they apply to an insurer or a person engaged in the business of insurance, to the extent the provisions do not conflict with this chapter:

- (1) Articles 1.09-1 and 21.47;
- (2) Sections 31.002, 31.004, 31.007, 31.021, 31.022, [~~31.023~~] 31.026, 31.027, 32.021, 32.022(a), 32.023, [~~33.002~~] 33.006, 36.108, 38.001, 81.004, 201.005, 201.055, 401.051, 401.052, 401.054-401.062, 401.103-401.106, 401.151, 401.152, 401.155, 401.156, 801.001, 801.002, 801.051-801.055, 801.057, 801.101, 801.102, 841.251, and 841.252;
- (3) Subchapter B, Chapter 31;
- (4) Subchapters A and C, Chapter 32;
- (5) Subchapter D, Chapter 36;
- (6) Subchapter A, Chapter 401;
- (7) Subchapter A, Chapter 542;
- (8) Subchapter A, Chapter 805; and
- (9) Chapters 86, 402, 441, 443, 481, 541, 802, and 824.

SECTION ____ .008. Section 52.092(c), Election Code, is amended to read as follows:

(c) Statewide offices of the state government shall be listed in the following order:

- (1) governor;
- (2) lieutenant governor;
- (3) attorney general;
- (4) comptroller of public accounts;
- (5) commissioner of the General Land Office;
- (6) commissioner of agriculture;
- (7) commissioner of insurance;
- (8) railroad commissioner;
- (9) [~~(8)~~] chief justice, supreme court;
- (10) [~~(9)~~] justice, supreme court;
- (11) [~~(10)~~] presiding judge, court of criminal appeals;
- (12) [~~(11)~~] judge, court of criminal appeals.

SECTION ____ .009. Section 504.401(d), Transportation Code, is amended to read as follows:

- (d) In this section, "state official" means:

- (1) a member of the legislature;
- (2) the governor;
- (3) the lieutenant governor;
- (4) a justice of the supreme court;
- (5) a judge of the court of criminal appeals;
- (6) the attorney general;
- (7) the commissioner of the General Land Office;
- (8) the comptroller;
- (9) a member of the Railroad Commission of Texas;
- (10) the commissioner of agriculture;
- (11) the commissioner of insurance;
- (12) the secretary of state; or
- (13) ~~(12)~~ a member of the State Board of Education.

SECTION ____ .010. Sections 31.023 and 33.002, Insurance Code, are repealed.

SECTION ____ .011. (a) The first general election for commissioner of insurance shall be held November 6, 2012, for a two-year term beginning on January 1, 2013. Thereafter, the commissioner of insurance shall be elected to serve a four-year term.

(b) Until the first commissioner of insurance elected under this Act takes office, the commissioner serving on the effective date of this Act shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the office, and that prior law is continued in effect for that purpose. If on January 1, 2013, there is a vacancy in the office of commissioner of insurance created under this Act because the first commissioner-elect has died or refuses or is permanently unable to serve, the commissioner serving on that date shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the office until the governor fills the vacancy by appointment in the manner provided by law. The prior law that governed the office of the commissioner of insurance is continued in effect for that purpose.

SECTION ____ .012. Notwithstanding another provision of this Act, Section 31.027(a), Insurance Code, as amended by this article, and Section 504.401(d), Transportation Code, as amended by this article, take effect January 1, 2013.

Representative L. Taylor moved to table Amendment No. 59.

The motion to table prevailed by (Record 946): 94 Yeas, 47 Nays, 4 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr;

Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Thompson; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Hunter; Johnson; King, T.; Lozano; Lucio; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Taylor, V.; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker; Bonnen(C); Mallory Caraway; Miles.

Absent, Excused — Cook; Geren; Gonzales, L.; Schwertner.

Absent, Excused, Committee Meeting — Coleman.

HB 1951, as amended, was passed to engrossment by (Record 947): 96 Yeas, 46 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Lavender; Legler; Lewis; Lyne; Madden; Mallory Caraway; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Price; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Johnson; Laubenberg; Lozano; Lucio; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Paxton; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Taylor, V.; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Cook; Geren; Gonzales, L.; Schwertner.

Absent, Excused, Committee Meeting — Coleman.

GENERAL STATE CALENDAR
(consideration continued)

CSHB 1355 ON SECOND READING
(by Orr, Smithee, and Vo)

CSHB 1355, A bill to be entitled An Act relating to title insurance coverage for minerals and surface damage resulting from mineral extraction and development.

Amendment No. 1

Representative Orr offered the following amendment to **CSHB 1355**:

Amend **CSHB 1355** (house committee printing) on page 2, between lines 4 and 5, by inserting the following:

(c) The premium for a policy of title insurance may not be increased directly or indirectly based on a title insurance company's voluntary issuance of an endorsement described by Subsection (a). An additional premium or other amount may not be charged directly or indirectly for the issuance of an endorsement described by Subsection (a).

Amendment No. 1 was adopted.

Amendment No. 2

Representative Hughes offered the following amendment to **CSHB 1355**:

Amend **CSHB 1355** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 2703, Insurance Code, is amended by adding Sections 2703.055 and 2703.056 to read as follows:

Sec. 2703.055. REQUIREMENT OF CERTAIN PROVISIONS PROHIBITED. The commissioner may not require by rule or through adoption of a title insurance policy or other insuring form that a title insurance policy delivered or issued for delivery in this state:

(1) insure against a loss that a person with an interest in real property sustains from damage to the property by reason of severance of minerals from the surface estate; or

(2) provide insurance as to ownership of minerals.

Sec. 2703.056. EXCEPTIONS; MINERAL INTERESTS. (a) Subject to the underwriting standards of the title insurance company, a title insurance company may in a commitment for title insurance or a title insurance policy include a general exception or a special exception to except from coverage a mineral estate or an instrument which purports to reserve or transfer all or part of a mineral estate.

(b) The inclusion in a title insurance policy of a general exception or a special exception described by Subsection (a) does not create title insurance coverage as to the condition or ownership of the mineral estate:

SECTION _____. Sections 2703.055 and 2703.056, Insurance Code, as amended by this Act, apply only to a title insurance policy that is delivered or issued for delivery on or after January 1, 2012. A policy delivered or issued for delivery before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 2 was adopted.

CSHB 1355, as amended, was passed to engrossment.

HB 2510 ON SECOND READING
(by Lavender, Beck, Burkett, Hughes, et al.)

HB 2510, A bill to be entitled An Act relating to exempting the intrastate manufacture of certain incandescent light bulbs from federal regulation.

Amendment No. 1

Representative Beck offered the following amendment to **HB 2510**:

Amend **HB 2510** (house committee printing) on page 3 by striking lines 18-27 and substituting the following:

Sec. 2004.005. ATTORNEY GENERAL. On written notification to the attorney general by a resident of this state of the resident's intent to manufacture an incandescent light bulb to which this chapter applies, the attorney general may seek a declaratory judgment from a federal district court in

Amendment No. 1 was adopted.

HB 2510, as amended, was passed to engrossment. (D. Howard recorded voting no.)

FIVE-DAY POSTING RULE SUSPENDED

Representative Smithee moved to suspend the five-day posting rule to allow the Committee on Insurance to consider **SB 1213** and previously posted business at 9 a.m. tomorrow in JHR 140.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Insurance, 9 a.m. tomorrow, JHR 140, for a public hearing, to consider **SB 1213** and previously posted business.

RECESS

Representative Murphy moved that the house recess until 10 a.m. tomorrow in memory of James Clarke Box of Houston.

The motion prevailed.

The house accordingly, at 11:46 p.m., recessed until 10 a.m. tomorrow.

ADDENDUM

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

Senate List No. 25

SB 501, SB 656, SB 893, SB 980, SB 1104, SB 1153, SB 1160, SB 1168, SB 1341, SB 1680

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Tuesday, May 10, 2011

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:**SB 1213** Carona

Relating to consumer protections in the purchase of life settlement contracts; imposing penalties.

SB 1581 Ogden

Relating to state fiscal matters, and certain public health and safety matters, related to public and higher education; providing penalties.

SB 1616 West

Relating to the collection, storage, preservation, analysis, retrieval, and destruction of biological evidence.

SCR 53 Watson

Recognizing the Texas Heritage Songwriters' Association for fostering and preserving Texas culture.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2**MESSAGE FROM THE SENATE
SENATE CHAMBER**

Austin, Texas

Tuesday, May 10, 2011 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

**THE SENATE HAS PASSED THE FOLLOWING MEASURES:
LOCAL AND UNCONTESTED CALENDAR**

HB 438 Thompson SPONSOR: Carona
Relating to health benefit plan coverage for orally administered anticancer medications.

HB 457 Craddick SPONSOR: Nelson
Relating to restrictions on the promotion and operation of charitable raffles.

HB 1147 Smith, Wayne SPONSOR: Wentworth
Relating to notice by a governmental entity regarding certain geospatial data products.

HB 1322 Scott SPONSOR: Lucio
Relating to the possession of fish in the tidal water of this state.

HB 1527 Miller, Sid SPONSOR: Uresti
Relating to the certification of the state's primary standards of weights and measures.

HB 1753 Gallego SPONSOR: Uresti
Relating to the threshold amount at which public utilities are required to report a transaction.

HB 2012 Thompson SPONSOR: Gallegos
Relating to certain prohibited dealings between a wholesaler and retailer of alcoholic beverages.

HB 2375 Hamilton SPONSOR: Carona
Relating to practices and professions regulated by the Texas Appraiser Licensing and Certification Board.

HB 2559 Truitt SPONSOR: Harris
Relating to commercial motor vehicle installment sales.

HB 2680 King, Tracy O. SPONSOR: Hegar
Relating to the procedure for certain small local exchange companies to propose to offer certain services or to make a minor change in a rate or tariff.

HB 2991 Deshotel SPONSOR: Carona

Relating to a determination of the reasonable relation of certain transactions to particular jurisdictions.

HB 3287 Giddings SPONSOR: Carona
Relating to license renewals by the Texas Department of Licensing and Regulation.

SB 40 Zaffirini
Relating to the functions of the Texas Guaranteed Student Loan Corporation.

SB 467 Wentworth
Relating to the power of the Texas Commission on Environmental Quality to authorize certain injection wells that transect or terminate in the Edwards Aquifer.

SB 649 Hinojosa
Relating to the continuation and functions of the Texas State Affordable Housing Corporation; providing penalties.

SB 765 Uresti
Relating to the territory of the El Paso County Water Control and Improvement District No. 4.

SB 1073 Jackson
Relating to rainwater harvesting systems that are connected to public water supply systems.

SB 1114 Wentworth
Relating to the regulation of driver training schools and instructors.

SB 1285 Watson
Relating to contributions to the retirement systems for certain police officers in certain municipalities.

SB 1330 Watson
Relating to driving safety courses for individuals younger than 25 years of age receiving deferred disposition for certain traffic offenses.

SB 1735 Van de Putte
Relating to limited purpose subsidiary life insurance companies.

SB 1880 Huffman
Relating to the powers and duties of the Imperial Redevelopment District; providing authority to impose a tax and issue bonds.

SB 1881 Wentworth
Relating to certain financial powers and duties of the Travis-Creedmoor Municipal Utility District.

SB 1906 Wentworth
Relating to certain notice requirements for municipalities and counties under the open meetings law.

SB 1907 Wentworth
Relating to access to certain archaic information.

SB 1922 Lucio

Relating to the creation of the Port Isabel Improvement District No. 1; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

Respectfully,
 Patsy Spaw
 Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
 SENATE CHAMBER
 Austin, Texas
 Tuesday, May 10, 2011 - 3

The Honorable Speaker of the House
 House Chamber
 Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 370 Hochberg SPONSOR: Patrick
 Relating to the eligibility of a student to participate in extracurricular activities or competitions after transferring or moving from one public school to another.
 (Committee Substitute/Amended)

HB 444 Creighton SPONSOR: Nichols
 Relating to notification of applications for permits for certain injection wells.

HB 755 Cook SPONSOR: Nichols
 Relating to eligibility of certain dependents for coverage under the state employee group benefits program.

HB 841 Gonzalez, Naomi SPONSOR: Harris
 Relating to certain statutory references to the Department of Family and Protective Services.

HB 843 Geren SPONSOR: Davis
 Relating to the use of electronic means for the delivery of ad valorem tax bills to certain property owners and agents.
 (Committee Substitute)

HB 908 Thompson SPONSOR: Harris
 Relating to the division of community property on dissolution of marriage.
 (Committee Substitute)

HB 1061 Otto SPONSOR: Duncan
 Relating to the expiration of certain investment authority of the Teacher Retirement System of Texas.
 (Amended)

HB 1380 Truitt SPONSOR: Rodriguez

Relating to the graduate medical training requirements for certain foreign medical school graduates applying for a license to practice medicine in this state.
(Committee Substitute)

HB 1404 Sheffield SPONSOR: Harris
Relating to certain temporary orders in a suit affecting the parent-child relationship during a parent's military deployment.

HB 1405 Smithee SPONSOR: Deuell
Relating to provision by a health benefit plan of prescription drug coverage specified by formulary and to modifications of that coverage.
(Committee Substitute)

HB 1829 Naishtat SPONSOR: Nelson
Relating to an application for emergency detention and to the transfer to a mental hospital of a person admitted for emergency detention.
(Committee Substitute/Amended)

HB 1917 Schwertner SPONSOR: Ogden
Relating to the removal of appointed emergency services commissioners by a commissioners court.

HB 2360 Schwertner SPONSOR: Ogden
Relating to the creation of the Corn Hill Regional Water Authority; providing authority to issue bonds.
(Amended)

HB 2376 Hamilton SPONSOR: Jackson
Relating to the regulation of plumbing.
(Committee Substitute)

HCR 119 Davis, John SPONSOR: Jackson
Congratulating James Alford Davis on being named the 2011 Citizen of the Year by the Menard County Chamber of Commerce.

HCR 131 Davis, John SPONSOR: Jackson
In memory of Howard Victor Reed of Austin.

HCR 132 Davis, John SPONSOR: Jackson
Honoring the Texas State Association of Parliamentarians on the occasion of their annual convention.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, May 10, 2011 - 4

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 200 Zaffirini
Relating to reports, notices, and records required of institutions of higher education.

SB 371 Seliger
Relating to the eligibility for service retirement annuities of certain elected officials convicted of certain crimes.

SB 471 West
Relating to public school, child-placing agency, and day-care center policies addressing sexual abuse and other maltreatment of children.

SB 669 Wentworth
Relating to requests to inspect or be provided with copies of information under the public information law.

SB 1449 Zaffirini
Relating to an alternative method of satisfying certain licensing and program participation requirements for chemical dependency treatment facilities.

SB 1857 Zaffirini
Relating to the administration of medication for persons with intellectual and developmental disabilities.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, May 10, 2011 - 5

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 5 Zaffirini SPONSOR: Branch
Relating to the administration and business affairs of public institutions of higher education.

SB 146 Hinojosa

Relating to the offense of smuggling of persons and unlawful transport of an individual; providing penalties.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, May 10, 2011 - 6

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 1671 Duncan
Relating to the Teacher Retirement System of Texas.

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 9

Border and Intergovernmental Affairs - **HB 3717**

Business and Industry - **SB 710, SB 1240**

Corrections - **HB 2352, HB 3366**

County Affairs - **HB 684, HB 2679**

Criminal Jurisprudence - **HB 220, HB 1646, HB 3423, SB 82, SB 331, SB 604, SB 688, SB 841, SB 1200, SB 1416, SJR 9**

Culture, Recreation, and Tourism - **HB 251, HB 3782, HCR 83**

Defense and Veterans' Affairs - **HB 1544, HB 2688, HB 3580**

Energy Resources - **HB 3532, SB 1125, SB 1478**

Environmental Regulation - **HB 2987, SB 385**

Government Efficiency and Reform - **HB 1875**

Higher Education - **HB 1237**

Homeland Security and Public Safety - **HB 161, HB 1167, HB 1328, HB 1356, HB 2446, HB 2887, HB 2896, HB 2957, HB 3324**

Human Services - **HB 985, HB 3053**

Judiciary and Civil Jurisprudence - **HB 910, HB 2635, HB 3123**

Natural Resources - **HB 737, HB 1279, HB 2166, HB 3620, HB 3668, HB 3853, HB 3861, HB 3862, SB 1596**

Pensions, Investments, and Financial Services - **HB 2931**

Public Education - **HB 1268, HB 2322, HB 3026**

Public Health - **HB 392, HB 574, HB 1266, HB 1386, HB 1621, HB 2092, HB 3370, HB 3537, SB 544, SB 662, SB 663**

State Affairs - **HB 1729, HB 2288, HB 3247, HB 3252, HB 3801, SB 602, SB 1338**

State Sovereignty, Select - **HB 1240, HB 2923, HB 3188, HCR 94**

Transportation - **HB 664, HB 1636, HB 1669, HB 1938, HB 2917, HB 3723**

Urban Affairs - **HB 2224, HB 2361, HB 3035, HB 3357, HB 3363, HB 3597, HB 3607, HB 3716**

Ways and Means - **HB 717, HB 874, HB 1056, HB 1384, HB 2104, HB 2187, HB 3488, SB 776**

ENGROSSED

May 9 - HB 2197, HB 3473

ENROLLED

May 9 - HB 74

SENT TO THE GOVERNOR

May 9 - HB 15, HB 46, HB 906, HB 984, HB 1032, HB 1346, HB 1625, HB 2561, HCR 45

SIGNED BY THE GOVERNOR

May 9 - HB 612, HB 613, HCR 32, HCR 109, HCR 120, HCR 134, HCR 136, HCR 137, HCR 148

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